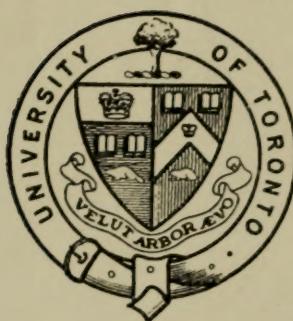




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THE
MUSICAL LIFE
AND HUMOUR

JOSSEPH HIGGISON



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LEGAL LIFE AND HUMOUR

COMPILED AND EDITED

BY

JOSEPH HEIGHTON

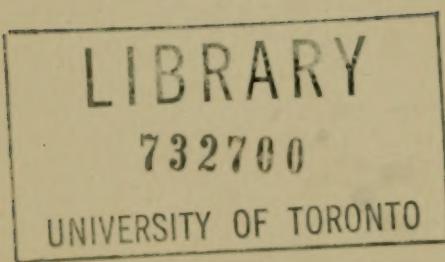
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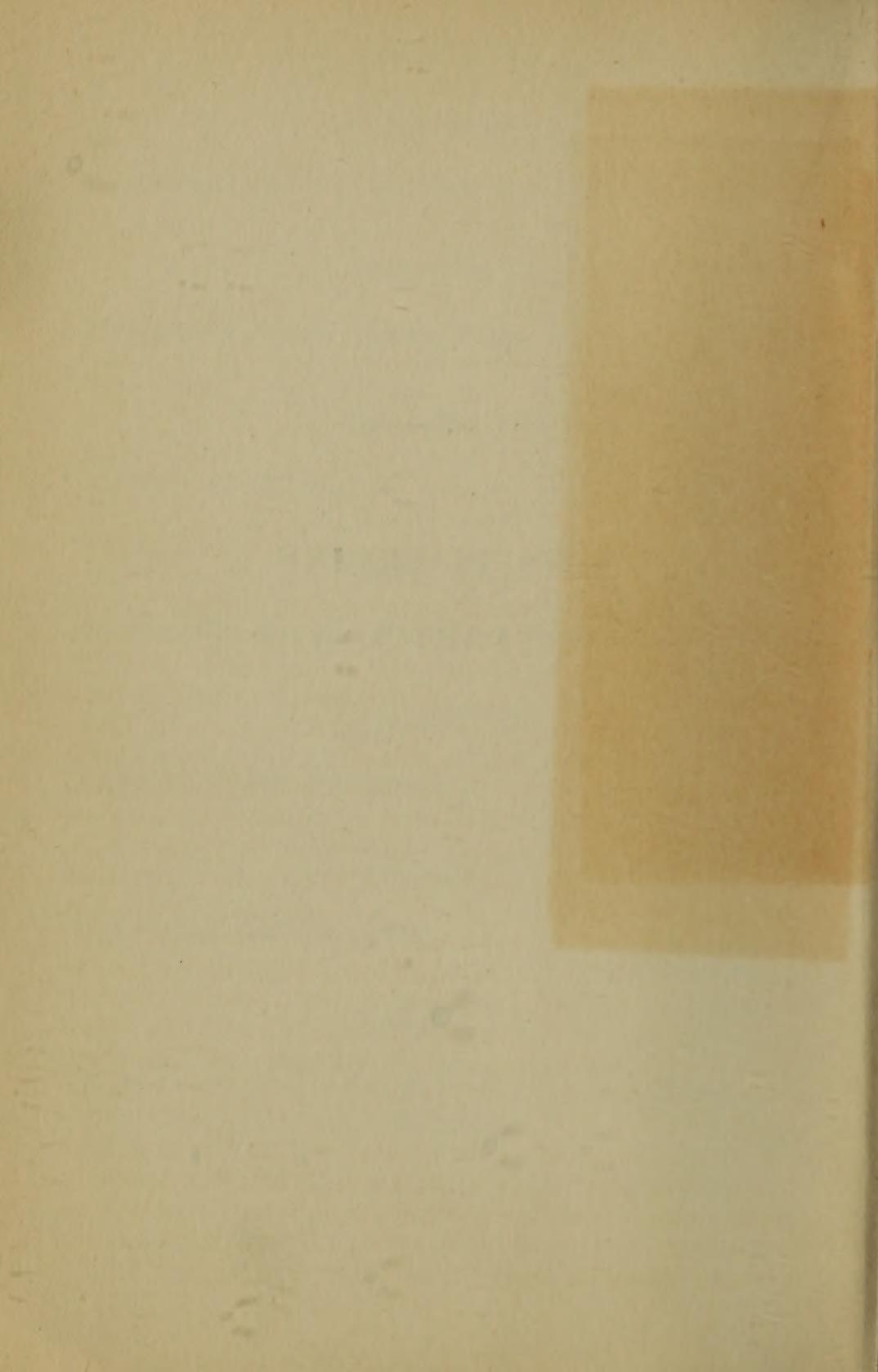
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WITS IN ERMINE

PART I



CHAPTER I

WITS IN ERMINE

PART I

“ Judges ought to be more learned than witty.”—*Bacon*.

“ It is a common error to suppose that our law has no sense of humour, because, for the most part, the judges who expound it have none,” writes Mr. Justice Darling, the sprightly Ariel of the King’s Bench as he has been termed, in his delightful book “ *Scintillæ Juris*. ” From which it would seem that Mr. Justice Darling agrees with the contention of many people that the gentlemen sitting on the Bench to-day suffer from a deficiency of humour, although they may at times endeavour to force a note of levity into the proceedings. The fact, however, that Mr. Justice Darling qualifies his statement with the words “ for the most part,” leads one to ask the pertinent question: Does he include himself in the indictment? If he does, he must assuredly suffer severely from the bump of unconscious humour, an affliction borne with much resignation by the irrepressible Mr. Plowden, who plaintively says in his autobiography, “ Grain or Chaff? ” :

“ Often I have sat on the Bench suffering from a violent headache or an attack of neuralgia, in the most melancholy frame of mind, and have been amazed, when I opened my newspaper the following morning, to find some of my remarks headed, ‘ More Funny Plowdenisms.’ ”

Then again, what of Judge Parry, wit, author, dramatist as well as judge ; Mr. Justice Eve, genial humourist and wit ; Justices Bucknill, Bargrave Deane, Rentoul and Channell, whose ancedotes are the delight of the Bar ? As humourists they may not have such a wide reputation as Mr. Justice Darling, but this is probably due to the fact that they do not air their jocularity quite so much as he does.

Lightheartedness, indeed, may be said to be one of the main characteristics of Mr. Justice Darling. He seems to have entered upon his profession without serious thought. "When I was young," he says, "I was very idle, and my guardian asked me what I was going to do to earn my living. I think he gave me the selection of several unpleasant ways—all ways seemed unpleasant. I knew nothing about them, and so I said: 'Oh, very well, I'll be a solicitor,' and I began to be a solicitor ; but it appeared to me after a short time that I might not be so idle as I wished. I made the acquaintance of a few other people, who said to me: 'If you really wish to be completely idle, probably for the rest of your natural life, you had better be a barrister.' And so I became one, and I can assure you that for several years—indeed, for many years—I realised the height of my ambition."

Since then, "My little Darling," as he was playfully called some years ago by the late Lord Brampton, has endeavoured to enliven the law with quips, jokes and epigrams, the bantering of plaintiffs, defendants and counsel, and, at times, his fellow judges. There are times when he looks and acts like a boy, never more so than when he leans back in his chair and joins in hearty laughter at some naïve remark from the Bar or the witness-box.

His fondness for a joke at the expense of anyone who affords him an opportunity, is illustrated by an incident which occurred in the King's Bench Division in October, 1911, when Sir George Douglas, Bart., of Springwood Park, Kelso, Scotland, who had been summoned as a special juror in respect of his London residence in

Ennismore Gardens, W., asked to be excused from serving on the ground that he resided in Scotland, and did not occupy his London house. The following dialogue then ensued :

Mr. Justice Darling : " Do you serve on juries in Scotland ? "

Sir George Douglas : " I have never done so, but I am liable to be called upon to serve. I have not occupied my town house for eighteen months, and I have had to come up specially from Scotland to answer this jury summons."

Mr. Justice Darling : " When do you want to go back ? No Scotsman wants to go back."

" I want to go back at once."

" To-day ? "

" No ; to-morrow."

Mr. Justice Darling : " The temptation to remain is that you may make a guinea. Well, Sir George, the circumstance of a Scotsman wishing to return to Scotland when he could make money by remaining in England is so exceptional that I will excuse you."

There were some amusing passages, too, in an appeal case which came before Justices Darling and Jelf, sitting as a Divisional Court in 1909, the chief point raised being whether a farmer had a right to allow his sheep to graze on a grouse moor to the detriment of the owner's shooting. The County Court judge had refused an injunction, giving small damages only against the farmer, and the landowner asked that a perpetual injunction should be issued.

Mr. Justice Darling to the solicitor for the landowner : " This migration of sheep seems a general movement of ' back to the land. ' "

Solicitor : " My client appreciates that as long as they keep off his land."

" Do the sheep molest the grouse ? " queried Mr. Justice Darling, " and is that why you suggest they have horns ? "

Solicitor : " The grouse like the sheep ; there is a kind of affection between them."

Mr. Justice Darling : "Then the sheep go to visit the grouse ? If you succeed with your argument we will have people coming to the Court asking for injunctions to prevent grouse from flying over farmers' lands."

In dismissing the appeal, his lordship said he thought it would be necessary to introduce obese or inactive cattle into Yorkshire, so that they would not wander on the moors. For, said his lordship :

" Mountain sheep are sweeter
And valley sheep are fatter ;
We therefore thought it meeter
To cultivate the latter."

During the trial at Exeter Assizes some years ago of a civil action in which the feoffees of certain church lands were defendants, the latter created much amusement by their varied pronunciations of the word "feoffees." Some said "fee-fees," others "fifees," or "fe-o-fees"—any pronunciation but the correct one. There being rather a large number of them to be called, Mr. Justice Darling promptly turned to counsel engaged for the defendants and said :

"Mr. B——, as your clients do not seem to be able to agree as to what they should call themselves, might I suggest, in order to avoid confusion, that they should during the rest of the hearing call themselves 'Fee-fi-fo-fums.' "

It was also at the Exeter Assizes that the following incident occurred.

Mr. Justice Darling (examining the original correspondence in a breach of promise action) to counsel for the plaintiff : "Mr. H——, what do these hieroglyphics at the bottom of this letter mean ? "

Mr. H—— : "Oh, in that sort of letter, my lord, those crosses are supposed to represent kisses."

Mr. Justice Darling : "Indeed. In the part of the country I come from we call it treble X, and it refers to beer."

There was another occasion when, during the hearing

of a certain case, Mr. Justice Darling had occasion to remonstrate with a barrister for his reading of a technical point.

“ You will pardon me, my lord,” said the latter, “ but, perhaps I may remind you that you argued a case in a similar way yourself when you were at the Bar.”

“ I admit it,” said his lordship, in that suave way which he has made his own, “ but that was the fault of the judge who allowed it.”

And no one appreciated the joke more, although it was against himself, than Mr. Dankwerts, K.C., who, when he was asked in a certain case who made the translation from the German of a document to which he had referred, replied :

“ God knows. I don’t.”

“ Are you quite sure, Mr. Dankwerts,” Mr. Justice Darling quietly remarked, with a twinkle in his eye, “ that what is not known by you, is known at all ? ”

He also once had a sly dig at Mr. F. E. Smith, K.C. Mr. Justice Darling, on getting out of a taxi-cab at the Law Courts one day, grazed his shin against the door, and having to send for some ointment, was consequently late in taking his seat on the Bench. On entering the Court he apologised to the jury for having kept them waiting, on which Mr. F. E. Smith expressed the hope that it was “ nothing serious,” to which the Judge replied :

“ Thank you, Mr. Smith, no ; there will be no vacancy at present.”

There was another occasion when a prosy counsel was giving a monotonous disquisition on the powers of a County Council in restricting certain manufactures, and gravely informed his lordship that gut-scraping was a dangerous trade. “ Then, according to you, all violinists should be prosecuted,” was the immediate and serene reply of the Judge.

Even in his early days he could not resist the temptation to joke in Court. When a junior he was once engaged in a case at Sessions, which lasted long after the Court

usually closed for the day. At length the chairman blandly said : " Do you notice the hands of the clock, Mr. Darling ? " Mr. Darling, who was addressing the jury, replied, " They seem to me, sir, to be in their normal position at this time of day."

His impressions, by the way, of the House of Commons are very amusing. He considers the House a very good public school, with the advantage over the ordinary public school that you need not play games there. He confesses that he always had a strong antipathy to playing games. But he has a passion for hunting and a weakness for painting pictures, while he laughed up his sleeve for some time when people were disputing the authorship of " *Meditations in the Tea Room* "—for it was written by Sir Charles himself.

Perhaps the best illustration of Mr. Justice Eve's delightful sense of humour is that afforded by a speech, which might be entitled " *The Political Meat Market*," which he made at the annual dinner of the Savage Club in December, 1911. Sentence after sentence was punctuated with laughter as Mr. Justice Eve thus proposed the toast of the Club :

" I have been hoping," he said, " that the dinner might never come off, that the Savage Club might be swept away with the rest of our institutions, that, by some midnight amendment introduced into the Insurance Bill, it might be suppressed as not being a society approved by the particular shade of Celtic Calvinism which, for the moment, brooded over the face, and almost threatened to obliterate the features of our once happy and smiling community. But the occasion has arrived with an ostentatious and offensive punctuality."

In preparation for his task, Mr. Justice Eve averred he had wrestled unavailingly with several volumes of the " *Encyclopædia Britannica*." " Parenthetically and pathetically," he interpolated, " my edition is the ninth. I have ten supplemental volumes and a *Times* oak book-case and, so far as I am concerned, no reasonable offer will be refused.

"Overthrown in my encounter with the *Encyclopædia*, I studied a certain work on the habits and customs of savages, from which I gathered that it was the custom among certain tribes that captives taken in war were kept for a time and fattened for barter. When the fattening process was complete, the 'fattee' was led round the tents of the tribe and would-be purchasers chalked on his body the particular joints they would desire.

"With what alacrity the Suffragists, if they could catch him, would chalk out the Prime Minister! How much of Mr. John Redmond would be left for the second day's soup if Mr. Healy and Mr. O'Brien had a cut at him on the first day? I believe there are some persons here who would not be averse from a state of things which would give them the opportunity of bespeaking a nice brisket, with plenty of crackling, from the pachydermatous hide of the Great Spoliator of our domestic servants. . . . I cannot imagine that anybody who has not cultivated a depraved appetite for drum-sticks and scrag ends of neck of mutton could anticipate, with any gastronomic pleasure, the dismemberment of the senior member for the City of London (Mr. Balfour) or the carving-up of the member for the University of Oxford (Lord Hugh Cecil)."

After a tribute to the useful work which the Club formed in sweetening and deepening human intercourse, the speaker went on to say that he was credibly informed that the Government, flushed with the overwhelming unanimity with which their recent legislation had been received, and intoxicated with the indescribable welcome which awaited the Commissioners who were to regulate domestic life, and the inspectors who would shortly be hanging about areas and kitchens, proposed to make further experiments in the same direction, and that they would, within a short period, make the following appointments:

"Mr. Keir Hardie to be Commissioner of Clothing, with plenary power to legislate as to what headgear, coats, and

'never-mention-'ems' are to be worn on State ceremonial and other occasions.

"Sir Thomas Whittaker and Mr. Leif Jones to be Joint Commissioners of Drink, with power to legislate for the extermination of hydrophobia.

"Certain Commissioners of Pleasure, with power to suppress all places of entertainment excepting Julia's Bower, Whitfield's Tabernacle, Regent's Park Chapel, and one court in the Chancery Division, to be presided over by my brother Darling.

"Right Rev. the Bishop of ——— (a bachelor) to be Commissioner of Population, with power to bring about, by all reputable means, the production of large families principally by persons who do not want them, and who have neither the means nor the intention adequately of supporting them.

"The gentleman who is at present, I think, First Commissioner of the Cocoa Islands, and, I think, the editor of the expurgated edition of 'Ruff's Guide to the Turf,' to be Commissioner of Sport, with power to suppress the Derby, the Boat Race, football, cricket, golf, ping-pong, dominoes, draughts, and all other games into which the element of chance enters, or which may be productive of the use of expletives, and with further power to enrol all those who have taken part in those games or have used expletives as life members of the League of Latter-day Prigs, and to compel them to pass a qualifying examination in (1) 'Uncle Tom's Cabin'; (2) Conscience, Non-conformist, and others, if any; (3) Humbugs and the accumulation of wealth with the assistance of labour, forced, indentured and free."

Referring to humbugs, Mr. Justice Eve told an amusing story of his experiences at a fair during the hearing, some time ago, of an action by Mr. Harry Relph, better known as "Little Tich," who claimed an injunction to restrain a certain cinematograph firm from "billing" him in such a way as to lead the public to believe that he was appearing personally at their cinematograph entertainment at seaside-places. His lordship, during the hearing, mentioned

that he was once at a gipsy fair and went to see a mermaid, which was represented to be half a lady and half a fish. The thing he saw was stuffed, with the head of a monkey and the tail of a fish. He had paid 2d. and felt so angry that he was inclined to smash it.

Gipsy life has a good deal of fascination for Mr. Justice Eve. During the last twenty odd years he has made many caravan tours in Devon, Cornwall, and Somerset, and a huge volume of photographs forms a memento of his journeying.

On one occasion Sir Harry was forced to draw up his van nearer the highway than usual, and was soon accosted by an individual who, after laying down the law, inquired who the visitor was. "I'm the Duke of ———," replied the Judge. "You don't look much like him," was the rejoinder. "Who are you?" asked Sir Harry in return. "I'm the police-sergeant." "Well," said Sir Harry, "you don't look much like one."

Yet another good story. A new hand had arrived, but was a stranger to the district. He proceeded to Sir Harry's house, but was informed that the latter was out Widdicombe way picnicking.

Gaining the necessary directions, he started, and had not gone far before he met a caravan with an affable rustic-looking individual in charge, whom he saluted with: "Hi, guvnor, seen any gentleman picnicking near Widdicombe—Squire Eve, I mean. D'ye know him?"

The driver did. In the purest Devon dialect, he informed his questioner that he was "comed" from the "hocky" part, but he had not "zeed" no parties picnicking. He rather expected the squire would be found at home, and offered the wayfarer a lift back "zo fur."

On the way agricultural matters were jovially discussed over pipes until, arriving near the house he sought, the stranger got down, and went in. Some little time afterwards he was vastly astonished to learn the real identity of his guide.

Mr. Justice Eve once used his own name to provoke a hearty laugh. A witness was asked a question, and he

replied, "I know no more than Adam." "Or Eve," quietly remarked the Judge.

It is a tale of the Temple that when Mr. Justice Eve took silk in 1895, he circulated the usual notice of his intention to his seniors, according to the etiquette of the Bar, and from one of them received the following reply :

"MY DEAR EVE,—Whether you wear silk or fig-leaf I do not care

"A. DAM."

The story may or may not be true, but Mr. Justice Eve doubtless enjoyed the joke as much as Lord Alverstone enjoyed the lines of the witty barrister who thus commemorated a certain case in which the ex-Lord Chief Justice, in his early days as a barrister, succeeded in changing the opinion, in one of the early electric light cases, of Lord Justice Cotton in regard to the threadlike filament now so familiar a sight within the bulb.

Said the witty versifier :

" 'Twas no mean workman that devised
A speech of such electric force;
Successfully he carbonised
The thread of his discourse.
Logic and fact so close were packed,
That Webster to his purpose bent
Even a cotton filament."

If Lord Alverstone did not exactly scintillate on the Bench like Mr. Justice Darling, he dearly loved a good story, and told one or two with rare zest. Some years ago he lent a needy friend a sovereign, and then bet another friend that he would one day get his money.

The second friend was very doubtful, however, and took the bet with alacrity. Some time afterwards Lord Alverstone met the latter gentleman, who sarcastically inquired: "Well, have you received the money from poor R—— yet?" "No," replied his lordship, "and I shall not press him, for I have received a letter from him which is worth the money." The letter read as follows : "As the date has arrived for the £1 to be repaid, please

find a postal order for that amount, for I'm hanged if I can. Yours, etc."

It is only a short time ago that Lord Alverstone, speaking of the portrait of himself painted by the Hon. John Collier, remarked that the pleasure of being painted by such a distinguished artist was not without its alloy.

"The other day," he continued, "a friend of mine, looking at this portrait, said: 'Do you think you would like to be as wise as Collier has made you look?' 'I should,' I replied. 'Well, you can't,' said the friend."

Here is another story Lord Alverstone tells against himself with great gusto. When he was only Richard Webster, he was acting, on one occasion, as junior to Sir Douglas (then Mr.) Straight. The defendant, charged with criminal libel, for whom they appeared, was a very irascible old gentleman. Sir Douglas Straight was called away during a portion of the proceedings, which lasted several days, and the conduct of the case was consequently for a time in the hands of his junior. The next morning a note arrived from their client, saying: "For Heaven's sake, let us have no more of Webster's melancholy performances."

Mr. Straight obtained the man's acquittal by persuading the jury that the prisoner was not to be treated as an ordinary man, as his language, even about trivial matters, was most outrageous. Lord Alverstone says this experience taught him a good deal. It made him bold.

Many readers are doubtless familiar with the athletic record of the ex-Lord Chief Justice in his college days—how, as a sprinter, he earned many successes at Cambridge, while "Dick Webster" was also recognised as a useful man to have on your side on the cricket field. But, perhaps, of all his interests and gifts, he is most proud of his voice, and for some years after he became Lord Chief Justice, he used to sing in the choir at St. Mary Abbot's, Kensington. On one occasion when, as Sir Richard Webster, he had addressed a political meeting, he concluded by singing to the audience. His solo, a sacred

one, was heard with even more attention than his speech.

At the close a gaunt sprinter rose at the back of the audience, and said: "With your face and your voice, Sir Richard, you ought to be preaching the Gospel truth to the poor heathens, instead of telling honest folk to be political."

Sir Edward Clarke can also sing a song, and there is a story, rather a chestnut, perhaps, but well worthy of repetition, to the effect that at a certain legal gathering at which both were present, a mutual friend received successive confidences. Sir Edward Clarke said: "Ah, Webster, rare good fellow if only he did not think he could sing." And Sir Richard Webster confided: "I have always had the highest regard for my friend Clarke, but that voice of his—really, someone ought to tell him."

It used to be wickedly suggested that when Dr. Glyn, the present Bishop of Peterborough, was Vicar of Kensington, he was in the habit of glancing apprehensively at the roof when his distinguished chorister was getting his top notes.

Of his younger days Lord Alverstone also tells this story. One day, on his way to the Law Courts, his cab was run into by another. In discharging the cabman at the Courts, Lord Alverstone handed his card, in case he should be wanted as a witness. In due course the case came on, and Lord Alverstone was asked to take a seat near the Bench. The verdict was ultimately given in his cabman's favour. On the way out there stood cabby waiting for him. "Jump in, sir," he cried. "I'll drive you anywhere. I knowed it would be all right when I saw you up there a-squaring the beak."

These reminiscences of Lord Alverstone's early days recall a curious story which has certain amusing features, told of Lord Loreburn, who became Lord Chancellor in 1905. When "Bob Reid," as Lord Loreburn then was, was leaving Oxford, Jowett, who was then Master of Balliol, politely asked what part in life the young man had decided to follow.

"I think of going to the Bar," said young Reid.

"You will do no good at the Bar—good-morning," was the disconcerting reply.

Years later the future Lord Chancellor visited Oxford. His success had been immense, and he was considered one of the leaders of the Bar. Jowett met him, and they had a long chat. No reference was made to the unfortunate prophesy until they were parting. Then, as if an after-thought had occurred to him the famous Master said : "By the way, Reid, I told you you would do no good at the Bar. I beg your pardon—good-morning."

Lord Loreburn's most intimate friend during his years at the Bar was the irrepressible Sir Frank Lockwood. They began together at the Bar, fought their way up side by side as juniors, took silk at the same time, entered Parliament simultaneously on the same side of politics, became colleagues as the two Law Officers of the Crown, and each rejoiced heartily in the other's success. And yet Sir Frank Lockwood could not resist caricaturing his friend ; indeed, his chief delight was to make pictorial fun of "Bob" Reid.

The well-known journalist and M.P., Mr. Spencer Leigh Hughes, relates how, after Sir Frank's death, there was an exhibition of these pictures in London, and people who went were amazed at the manner in which the dignified "Bob" Reid had been shown up. Perhaps the most remarkable of the series was a sketch, entitled, "How Reid Prepared His Speech for the Parnell Commission." He is represented in one half of the picture as lounging in an easy chair, with a great black pipe in his mouth, and stretching out his hand to a monstrous bottle, labelled "Good Stuff." In the other half of the picture there is a lean and hungry wretch, surrounded by law books, writing away desperately, his eyes glaring and his cheeks sunken in—suggesting, of course, that while the distinguished lawyer smoked and sipped at ease, some hardworked "devil" in chambers looked up all the references.

"I told Sir Robert, as he then was," says Mr. Spencer

Leigh Hughes, "that people were saying that the pictures should never have been exhibited. He laughed heartily, and told me an interesting fact. He said that whenever Lockwood perpetrated one of those terrible drawings, he brought it to the victim before anyone else had seen it. 'Is there anything in this to which you object?'"

Lord Loreburn, however, cannot be said to have added much to the gaiety of law; and the same remark applies to Lord Halsbury, the sturdy Lord Chancellor of the Conservative Party; Lord Coleridge, poet as well as judge; and the late Lord Gorell, who succeeded Lord St. Helier as President of the Divorce Court in 1905, although to the latter has been ascribed the remark: "There are three classes of eggs—eggs, fresh eggs, and new-laid eggs," while he got his own back on the interrupter at a meeting, who, while he was speaking on the reduction of taxation of tea, sugar, and coffee, shouted, "What about oats?" His lordship, without a moment's hesitation, replied: "Oh, you eat oats, do you? I am sorry I did not see your legs. I really thought you had only two." His comment, too, on the slovenly barrister who astonished everyone at the Law Courts one day by appearing with a rose in his buttonhole is almost historic. "I wonder how the rose got there?" remarked a well-known K.C., to his lordship. "Probably it grew there," was the prompt reply.

There are some readers, too, who will remember Lord Gorell's frank allusion to the scent used by ladies who came before him in the Divorce Court. He was suffering from a headache, and said to his hostess one day that it was caused by scent. "Scent!" she exclaimed. "What do you mean?" "The ladies of the Divorce Court love perfumes," he replied. "It has been a hot and trying day for me, for each of the witnesses, who are placed in the box quite close to the Judge, has come into Court and waved a dainty handkerchief saturated with scent. I have inhaled patchouli, white rose, heliotrope, and half-a-dozen other perfumes since breakfast, and, unfortunately, the more emotional ladies become, the more

they waved these pretty pieces of scented cambric and applied them to their eyes."

Lord Gorell's objection to scent in the Divorce Court, however, is by no means so strong as Lord Justice Phillimore's objection to the divorce laws. When he sat as Vacation Judge some years ago, Sir Walter protested against being called on to make an absurd number of decree nisi granted in the Divorce Division. This fact is said to have caused a witty pronouncement—not from the Bench—by Lord Gorell, then Sir Gorell Barnes, President of the Divorce Court. "Here is my brother Phillimore," Lord Gorell is represented to have said, "who objects to making a decree nisi absolute because he believes in the sanctity of the marriage tie. By-and-by we may be having a Unitarian appointed to the Bench, and he will refuse to try Admiralty suits, as he would have to sit with Trinity Masters."

Although Lord Halsbury and Lord Coleridge cannot be said to have shone as humourists of the Bench, they have thoroughly enjoyed these two stories against themselves. On one occasion the latter was addressing a large audience of 'Varsity men at Oxford, when he used the phrase, "We must remember not merely the beauty of the individual colleges, but the beauty of Oxford as a whole. And what a whole it is!" "Hear, hear!" yelled the 'Varsity men. "Yes, what a hole!" they groaned. "What a beastly hole!" Then it dawned upon Lord Coleridge that this was a thing he would rather have expressed otherwise.

And it was the late Montagu Williams, who, *apropos* of the fact that tobacco is Lord Halsbury's pet aversion, has described how he and Sir Hardinge Giffard (as Lord Halsbury then was) used to dispute a good deal about the merits of the weed, whenever they travelled on legal duties together. Williams was a great smoker, and it used to annoy Sir Hardinge beyond measure to see him bring out his pipe and light up with a smile of happiness. At last the future Keeper of the Great Seal determined to protest, and one evening exclaimed, with much fervour :

"I hate tobacco! I never smoke." Williams said nothing, and took his pipe outside. Next morning he had his revenge. He knew well that Sir Hardinge would never breakfast without him, and came down purposely so late that there was no time for a meal before going to court. Williams was reproached for his unpunctuality, and genially replied: "Oh, I hate breakfast. I never eat breakfast."

The hint was taken, and in the future Williams had his pipe in peace.

It is related of Lord Halsbury that it was not always easy to get him to read his brief. On one occasion when he was retained in an election petition, it was discovered by his juniors the evening before the commission opened that he had neglected this precaution. The party were staying in a big country house, the owner of which was an ardent politician, and immediately after dinner Hardinge Giffard was conducted to the billiard room in company with the brief, and the key was turned on him. Three hours later the party turned to release him, and found him peacefully asleep on the settee, with the brief, a remarkably bulky one, as his pillow.

Sir Frederick Albert Bosanquet, whose appointment as Common Serjeant of London in 1900 proved so popular, possesses the reputation of never having made a joke in court. But he has been the cause of joking on the part of his confreres. At one time there were always controversies as to the correct method of pronouncing the historic Huguenot name which Sir Frederick bears. Once, at a Bar dinner, a slip of paper was sent round for suggestions. One, now a famous judge, with an eye, apparently, to Sir Frederick's taciturn erudition, wrote:

"Take a B, two O's, and a K,
Seal it—you have your Bosanquet."

Another, also a judge, wrote:

"Lively only at a banquet,
Is the barrister Bosanquet."

Last came Sir Frank Lockwood with :

“ You will get no hanky-panky
From the barrister Bosanquet.”

Someone has remarked that it is more on account of what he has written, rather than what he has said, that his Honour Judge Parry must be regarded as a humourist. This to a great extent is true, and those who have seen his plays, “ Katawampus ” “ What the Butler Saw,” “ The Captain of the School,” and read his entertaining reminiscences, “ Judgments in Vacation,” and “ What the Judge Saw,” not to mention his novels, short stories, and magazine articles, will probably agree that as a literary humourist it would be difficult to point to his equal on the Bench.

There have been few wittier speeches, however, than that made by Judge Parry at the annual dinner of the London Press Club in 1910. In proposing “ The Club,” Judge Parry said it was a nervous moment for a mere provincial like himself to address the intellect of England. (This was twelve months before he left Manchester for Lambeth.) But when he noticed that the home of the club was in Wine Office Court he felt he would be at home amongst them. If they turned up the concordance and looked up the word “ Press,” they would find “ Press, *see wine.*” There was a sort of consonancy, as Charles Lamb would say, between wine and the Press. Indeed, if they looked up a wine catalogue they might find some epithets which were peculiarly applicable to the Press. They would see “ the light, the dry, the reliable, and the tawny,” which he took to be an attribute which *The Daily Telegraph* would be well pleased to print on its front page. He did not quite know why he was there, but perhaps the older members of the Club thought it would be a good thing for the younger ones to see a county court judge in the flesh. The older members, of course, had known county court judges for a long time—not personally, perhaps, because his experience led him to believe that the more hardened the debtor, the less he ever appeared in person.

Indeed, he generally sent his wife to represent him, knowing the kind of heart that beat under the robes of a county court judge.

And it was a delicious story which he told at the Authors' Club in December, 1911, regarding a lady, who, although a Liberal, was very indignant about the Insurance Bill. "I remarked to her," said the Judge, "'Well of course, Lloyd George should not have done it.' 'I do not agree with you at all,' she declared. 'Lloyd George is in no way to blame; he knows nothing whatever about the subject. But what I cannot understand is why Mrs. George ever allowed him to do it.'"

His lordship has related that he was once greatly encouraged by a criticism passed upon him which he accidentally overheard. On leaving the court he passed two men walking slowly away. He had decided against them, and they were discussing why he had done so.

"Well, 'ow on earth 'e could do it I don't see, do you, Bill?"

"'E's a fool."

"Yes, 'e's a fool, a — fool, but 'e did 'is best."

"Ay, I think 'e did 'is best."

And Judge Parry adds genially that he has often thought one might rest beneath a less kindly epitaph than this: "He was a — fool, but he did his best."

Referring to his transfer from Manchester to Lambeth, his lordship, in his second book of reminiscences, "What the Judge Saw," relates an amusing encounter between himself and Bishop Welldon. They met on the steps of the pavilion at Old Trafford.

"And where is your diocese," genially asked the Bishop. "Lambeth," I replied promptly. "It sounds ecclesiastical, doesn't it?" "It did until your name was connected with it," said the Bishop, with a merry laugh.

From which it will be apparent that the Bishop, like the Judge, is a man of ready wit.

Judge Parry also tells this story against himself. Said a Lancashire bookmaker, summoned for keeping

a betting house, to his solicitor, "I want that two-year-old I sees at Bury County Court last week."

"What's his name?" asked his solicitor.

"Hanged if I know, but he's a long, lean, lanky beggar, and he puts one foot on the desk and just talks to the judge like as if he was his feyther."

According to Judge Parry, the uneducated man of the street is a better witness of outdoor facts than the clerk or warehouseman, having a more retentive memory, and he tells a story of a blacksmith who came to the farriery classes held by the Manchester Education Authorities. The clerk in charge gave him a notebook and pencil.

"Wot's this 'ere for?" asked the blacksmith.

"To take notes," replied the clerk.

"Notes? What sort o' notes?"

"Why, anything that the lecturer says which you think important and want to remember, you make a note of it," said the clerk.

"Oh," was the scornful reply, "anything I want to remember I must make a note of in this 'ere book, must I? Then what do you think my bloomin' yed's for?"

The worthy judge has made more or less successful efforts at play-writing, but he confesses that the morning after the Manchester production of "The Captain of the School" a postcard was placed on his desk which read: "Sir,—I went last night to see your play. It was like your verdicts—Rotten!" Judge Parry confesses that no postcard he has ever carried in his pocket has given more pleasure to his friends.

Recalling the memorable occasion when he was shot at in court, he relates how he was taken to a nursing home, where the Rontgen rays were employed. When the photograph was developed they showed him a blur with one distinct blob on it.

"What is that?" I asked.

"The bullet," said the doctors.

"And have you photographed all the metal in my head?"

"Certainly."

"Then where is the portrait of my gold tooth?"

This poser was too much for the doctors.

Judge Parry has many delightful and amusing stories to tell of former colleagues on the Northern Circuit, and one in particular of the late Charles M'Kean is worthy of repetition. The barrister was full of resource, and on one occasion an old woman who was indicted for larceny gave him a dock defence. He had no time to study the depositions, but he got on the right lines, and concluded an eloquent harangue as follows :

"And what, gentlemen, did the poor woman say when the magistrate's clerk asked her for her defence? I will read you her very words, and I think you will agree with me that they bear the stamp of conscious innocence." Ernest Jordon (his junior) tried to stem the torrent of his eloquence here, feeling sure he was remembering another set of depositions, but it was no use. M'Kean seized the papers and turned them rapidly over. He faltered a little when he saw them. "Well, gentlemen, this uneducated woman has not put it as you or I would put it, but I said I would read her words, and I will. What she says is: 'How the hell could I have the ——boots when he was wearing them?' And, gentlemen," continued M'Kean in a concluding burst of eloquence, "I ask you, with some confidence, how the hell could she?"

Judge Rentoul has a very pretty wit when he cares to use it. Speaking a good many years ago at an Anti-Home Rule meeting in Northampton, he said that the one part of Ireland which was happy, contented, and undisturbed was Connemara. "In Connemara," he added, "the peasants don't speak English, and the patriots can't speak Oirish."

Like many judges who sit in the Criminal Court, Judge Rentoul has had some quaint experiences with witnesses. On one occasion he asked the prosecutor: "Is it true, as alleged, that you declared that the prisoner had stolen your pocket-book?"

"Your honour," came the unexpected reply, "I did

not go so far as that. I merely said that if the prisoner had not assisted me in looking for the pocket-book I might have found it."

It is also Judge Rentoul who tells the story of a man who wanted to bring an action merely to hear his mother-in-law cross-examined. The man spoke to a barrister at the assizes, and was told he had no case. He replied : " I know I have no case at all, but I am bringing it because my mother-in-law must be a witness on the other side. I want the inside turned out of her, and I see you are by far the best man at the Bar for a job of that kind."

The acoustic properties of the new Old Bailey are by no means as perfect as they might be, and there is a decided echo of the walls. Some time ago Judge Rentoul sentenced a prisoner to six months' hard labour, and directly he had pronounced sentence " six months' hard labour " was echoed from the back of the court.

The prisoner was so taken by surprise that, turning to a warder by his side, he enquired anxiously, " Do these 'ere sentences run concurrently ? "

It was characteristic of his lordship that while the average man of to-day does not, as a rule, like admitting any mistakes he has made, he frankly confessed some time ago, during an address which he delivered, the text of which was " The Twelve Mistakes of Life," that he had committed the whole of them. This was the list he gave :

" To attempt to set up your own standard of right and wrong and expect everybody to conform to it.

" To try to measure the enjoyment of others by your own.

" To expect uniformity of opinion in this world.

" To look for judgment and experience in youth.

" To endeavour to mould all dispositions alike.

" Not to yield to unimportant trifles.

" To look for perfection in our own actions.

" To worry ourselves and others about what cannot be remedied.

" Not to alleviate, if we can, all that needs alleviation.

" Not to make allowances for the weaknesses of others.

"To consider anything impossible that we cannot ourselves perform."

"To believe only what our finite can grasp."

Judge Rentoul, it might be mentioned, takes such a pessimistic view of the legal profession that he has placed the average earnings of barristers at the English Bar at the low figure of two pounds three shillings per week. And yet barristers are held in higher esteem than M.P.'s if one may judge from this story, which Judge Rentoul tells of an occasion when he was presented with an address setting forth his services to local government.

"I noticed," he says, "that in the address 'M.P.' appeared in very small letters, while underneath, in very large letters, were the words 'barrister-at-law.' When I pointed this out to the artist the latter replied: 'I know what I'm about. I did that purposely. Any duffer can be a member of Parliament, but it requires a clever man to become a barrister.'"

Judge Avory, like Sir Frederick Bosanquet, has been accused of never making a joke. This, however, is scarcely correct, for on one occasion the counsel opposed to him in a certain case quoted a text from the book of Job to emphasize a point.

"I do not think that such evidence is admissible," said Mr. Avory, gravely, "seeing that you cannot put Job in the witness-box."

How the worthy judge came to throw over politics is told in his own words. "I defended," he said, "a large number of strikers—at Maidstone, I think it was—who had fallen foul of the law, and they all got off. Within three days of the verdict I was invited to stand as the Radical candidate for that part.

"A few months later I prosecuted a number of Socialists and extreme Radicals who had created a disturbance in the vestry hall in the same district. The men were convicted and within a few days I was invited to stand as the Conservative candidate.

"I considered the two offers, and decided to refuse to have anything more to do with politics."

And the Bench still chuckles when it recalls the story of the witness who proved too good for Judge Avory. "Let me see," he said to a witness for the other side, "you have been convicted before, haven't you?" "Yes, sir," answered the man, "but it was due to the incapacity of my counsel rather than to any fault on my part." "It always is," said Mr. Avory, with a grim smile, "and you have my sincere sympathy." "And I deserve it," retorted the man, "seeing that you were my counsel on that occasion!"

Even more staggering, however, was the following incident. A man was put in the dock on his trial for burglary. Mr. Horace Avory, as he then was, prosecuting for the Crown. One of the first witnesses called to give evidence against the prisoner was a sturdy-looking bricklayer. Mr. Avory started his questions with the leading ones :

"I believe your name is William Robinson?"

"Yus."

"And you live at fourteen Wembey Cottages, Hornsey?"

"Yus."

"Did you meet the prisoner on the night of the twelfth of February in Hornsey Lane?"

"Yus."

"What did he say to you?"

Up, naturally, jumped counsel for the prisoner, saying :

"My lord, I object; under Section so-and-so, no conversation can be given in evidence unless it took place in the prisoner's presence, or in the presence of another witness, my lord; it has been further laid down, etc., etc." and so on for a long time.

Mr. Avory then gave his reasons at great length why it was important this particular question should be answered, upon which Mr. Justice Darling said, as it was an important point, he would adjourn the court for a few minutes, and consult his brother Channell, who was sitting in the other court. Upon his return he said :

"As I anticipated, my brother Channell is of the same opinion as myself, and under the special circumstances of the case I shall allow the question to be put."

Up rose Mr. Avory with the cocksureness which at that time was one of his most valuable assets, and with an air of triumph said :

"Now, William Robinson, you say you live at fourteen Wembey Cottages, Hornsey?"

"Yus."

"And you met the prisoner on the night of the twelfth of February in Hornsey Lane?"

"Yus."

(Then very slowly) : "What—did—he—say to you?"

The staggering reply came back, much to Avory's discomfiture :

"Nuffin'."

It isn't often that a lawyer wins a case for a client and loses that client. But such a thing once happened to Mr. Avory. He was retained as counsel for the plaintiff in a suit against a railway company, and in the course of his argument in court, in the usual manner of lawyers, the K.C. endeavoured to gain the sympathy of the jury for his client.

"Gentlemen of the jury," declaimed the lawyer, "who are the parties to this important litigation? Here, on the one hand, we have an excessively rich and powerful corporation, and there, on the other hand, is my poor, simple client."

In this way continued the lawyer; and finally so worked upon the feelings of the jurors that they quickly returned a verdict in favour of the plaintiff.

It would appear, however, that the litigant was not exactly exultant over the means employed to defend his suit, for, when a friend some days after spoke of the case, he said :

"Yes, Avory's a fine lawyer all right, and he won my suit for me. But I'll never employ him again. Do you know, he called me a fool, and made the jury believe it!"

As a K.C., Mr. Avory belonged to what is known as the school of quiet lawyers. That is to say, he relied on facts and close reasoning rather than theatrical efforts to win his cases. It was this characteristic which made him even more terrifying, perhaps, to wrongdoers in the dock than might otherwise have been the case. A criminal of experience once leaned on the dock rail at the Old Bailey while he listened with a troubled expression to a very uncomplimentary description by Mr. Avory of his character and record. With a simulation of being hurt, he interrupted at last with, "You will be accusing me of murder next." Mr. Avory stopped, turned over a few papers which lay in front of him, and then, in a cold, matter-of-fact manner, said, "To which murder do you refer? I have here particulars of three in which it is said you have been concerned." For the rest of the hearing the prisoner remained silent.

As becomes good and ardent fellow-fishermen, Mr. Justice Bucknill and Mr. Justice Bargrave Deane have some good yarns to tell. Pride of place, perhaps, should be given to that related by the latter at the Hotel Cecil one night to a convivial gathering of members of the British Sea Anglers' Society. The story was one of the Spey, and came from Mr. Justice Deane's keeper, a very keen fisherman, but an equally keen Sabbatarian, whose previous master let his fishing to a gentleman of the Jewish persuasion. One day, after a succession of bad days, this gentleman said to the keeper: "Munro, I don't see why we should not fish to-morrow."

The morrow was Sunday, and Munro told him it was very unfortunate to fish on the Sabbath, and that something always happened.

The ardent angler, however, said he was not afraid, and so they went out fishing. Presently they came to a deep pool, and the angler, fishing from the side of a steep bank, suddenly lost his balance and fell in. "I don't know what it was," he said, after Munro had pulled him out, "but I was feeling quite all right when something seemed to impel me forward into the water."

"He was quite right," Munro told the judge on the quiet. "Something did impel him forward; he was impelled by me." Moral: Do not try fishing in Scotland on a Sunday.

And it is Mr. Justice Bucknill who tells this fishing story "I am a born poacher," he says. "Once, when shooting in North Wales with a member of the Chancery Bar, I divested myself of coat and vest and showed my friend how to 'tickle' trout in a wayside stream. My movements were watched by a local lad who accompanied us on our shoot, and the following year, visiting the neighbourhood, I inquired for the boy. I was told: 'He is in prison for "tickling" trout. He saw you do it last year. He has been doing it himself since, and they caught him.'"

Judge Bucknill is as good at a story as he is at any kind of sport. He tells a tale of an occasion when he should have been acting as Vacation Judge, but was in fact about to drive off for his first round at the golf club, when he heard a reproachful voice behind him exclaiming, "Mr. Justice Bucknill!"

There were two gentlemen in high hats, with brief bags, who put him off his stroke. He held a Court there on the Downs, and gave somebody an injunction which he did not deserve. On another occasion he was shooting when he gave a man his injunction. On the case coming into court, counsel said, "Your lordship may remember this case." He replied, "I do, because I nearly killed a pheasant, a barrister, and a solicitor with one shot."

Mr. Justice Bucknill is affectionately known among his colleagues as "Tommy," a circumstance which on one occasion led to a good deal of amusement and embarrassment in court.

A witness rejoicing in the name of Tommy was under examination, and the constant reiteration of the well-known nick-name proved so disconcerting to those present that the learned counsel, hoping to settle the matter once for all, turned sharply to Justice Bucknill with the remark, "It's not you, Tommy," and the court held its

breath for five minutes pending the explosion that never came.

Sir Thomas's sense of humour, however, is admirably illustrated by an incident which occurred some time ago during the Leicester Assizes. One day there was a severe snow thaw, and when leaving the courts, the judge lifted his scarlet robes so that he might reach his carriage without mud splashes. The figure he cut amused a group of girls, who shrieked with laughter. "Oh, my, you do look a guy" one of them shouted. "Never mind, my dear, how I look," answered the kindly judge with that winning smile of his, "so long as I get in my carriage without dirt."

And it may be permissible to introduce here an anecdote illustrating his characteristic kindness. Once at the South Wales Assizes a journalist brought his little boy into court with him, probably at the beginning of a liberal education, and placed him by the reporters' table. He watched the proceedings silently, evidently impressed. Despite his unobtrusiveness, his presence did not escape the keen-eyed judge, and presently a note was dropped from the Bench on to the reporters' table. It was inscribed: "For the little boy sitting at the table." Inside the note were these words: "I see a very nice quiet little boy watching his father writing shorthand. I send him sixpence for his money-box.—T. T. Bucknill."

Some present-day legal celebrities are particularly happy in their *bon mots* and epigrams. The humour of Lord Justice Vaughan Williams, who began his career at the Bar by "devilling" for Lord Halsbury, has a particularly epigrammatic turn. "There is a genuine ring about these affidavits, as if they were the witness's own words." "I can never understand why counsel will undertake the arduous task of convincing their opponents instead of the judge. Their opponents are paid not to be convinced." "There is a Providence, even in the City." These are some of the good sayings with which he has adorned his judgments. To a voluble and persistent barrister he once said, "Stop, Mr. ——, my receptivity is exhausted."

Lord Justice Vaughan Williams' reference to affidavits recalls one of the rare occasions when Sir Charles Mathews, who was appointed Director of Public Prosecutions in 1908, was found guilty of joking. Although he seldom jokes, he is the originator of several quaint maxims which are standards in the Law Courts. Perhaps the best of the bunch which his lordship invented, and which he has quoted more than once, is that "Truth will out, even in an affidavit!"

The curious delivery of Mr. Justice Channell, which sometimes makes it very difficult to catch all his words, once gave rise to a happy *bon mot* on the part of the late Sir Frank Lockwood.

Sir Arthur, then an advocate, was addressing the court, and the judge, failing to catch the remark, asked him to be good enough to repeat it, whereupon his brother counsel created no small merriment by the *sotto voce* observation that the remark had been "Lost in the chops of the Channell."

Sir Arthur, by the way, is an expert on naval affairs, being one of the most enthusiastic yachters on the Bench. In connection with his passion for the "briny," there is an amusing story told of how Sir Arthur's yacht once found her passage blocked on the Thames by a dirty-looking empty ballast barge, the only occupant of which was a man smoking a small clay pipe. Finding that he did not make any attempt to get out of the way, Mr. Justice Channell commanded his chief officer to remonstrate with the fellow, which he did in true nautical fashion. Presently the man in the barge shouted, "Is it yerself that's owner of the ship?" "No," was the reply. "Thentalktoyerequals. I'mcaptainandproprietorofthis."

Lord Robson, who became a Lord of Appeal in 1910, has been described as the "Dandy Lawyer," his white spats and whiter waistcoats having aroused the envy of the Temple and St. Stephens; and he is a witty one to boot. "It seems to me," said an indignant member of the House on one occasion, after striving to convince Sir William with a lengthy speech, "that you cannot swallow my

argument." "No," said Sir William without hesitation, "I don't want to die of indigestion." On another occasion, when he was visiting his son at Eton, he was attracted by a tie in one of the shops. The tie was black, striped with light blue. He bought it and returned to his son's room in triumph, but was greeted with horror. "Father, you cannot wear an Old Etonian tie!" "I do not know anything about its being Old Etonian. Why should it not stand for Old Robsonian?" came the ready retort.

And he has thus wittily described his first smoke. "I had my first pipe at the age of seven, and some of you have had a similar experience. You remember with what triumph you discovered that you could get smoke into your mouths, and that you could blow it out again. You may possibly remember what, for many years, made me a non-smoker—the awful sensation that succeeded upon that moment of triumph, when the stomach went on strike, and the brain only retained consciousness enough to long for death."

Perhaps one of the best stories told of Lord Robson is that concerning an incident which occurred shortly after he had been appointed Attorney-General in 1908. One day he entered a smoking-room at the House of Commons in a state of great enthusiasm. Seeing a friend sitting there with another gentleman, Sir William remarked to him that Mr. Lowther was quite the best Speaker under whom he had sat.

Noticing that the friend was rather quiet, Sir William inquired what was the matter, and the answer came, in a stage whisper, "Be careful what you say; that is Mr. Gully with me!" The Attorney-General fled! Meeting another friend walking along the corridor, he remarked to him: "I fear I have put my foot in it dreadfully. I said to — that the present Speaker was the best I ever sat under, and there was the late Speaker's son sitting a yard off me!" "Well, Robson," said the friend, "I don't know that you have made things much better. Allow me to introduce Mr. Peel!"

Sir Samuel T. Evans must be one of the greatest experts in the country on matrimonial problems. As President of the Divorce Court he passes his days listening to tales of marital woe, and no judge is harder worked. But he is never depressed, and refuses to answer the question as to matrimony being a failure in the affirmative.

This keen-witted judge started his legal career as a solicitor. Realising that the Bar offered more scope, he changed over, and was so successful that he took silk in the remarkably short space of nine years. He was the last Q.C. to be appointed. For over twenty years he represented Glamorganshire in Parliament, and was Solicitor-General from 1908-10, when he took his place on the Bench.

By his hat shall you know Sir Samuel Evans. No matter how fashions may change in "toppers," he clings to a weird type of headgear which is flat in the brim and tall in the crown, something like those hats you see on women dressed in Welsh costume.

Sir Samuel has several good stories to tell relating to his profession. One which concerns a man who stole a pair of trousers is decidedly naïve. This man received a favourable verdict, but when the case was over he showed no signs of leaving the court. At last his lawyer asked him why he didn't go. The innocent (?) man whispered in reply: "The fact is, sir, I did not like to move till the witnesses had left the court. You see I've got on the trousers what I stole."

Sir "Sam," as he was generally known in Parliament, is an accomplished linguist, speaking his native Welsh with ease, and being one of the few members, when at Westminster, who ventured upon Latin quotations. He has a Welshman's love of humour, and tells how, on one occasion, he asked a man who had sat on several juries, "Who influenced you most, the lawyers, the witnesses, or the judge?" "This is the way I made up my mind," replied the man. "I am a plain chap and a reasonin' one, and I'm not influenced by anything the lawyers say, no, nor by what the judge says. I just look at the man in the

dock and I ask myself, ' If he hasn't done anything, why is he there ? ' and I brings him in guilty."

The humour of Mr. Justice Jelf is of a somewhat sarcastic kind at times, notably when he once asked a lachrymose prisoner who appeared before him when he was Recorder of Shrewsbury, " Why do you weep ? " " Oh, my lord," came the tearful answer, " I have never been to prison before." " Don't cry, prisoner at the bar," was the cheerful answer, " I am going to send you there now."

A bargee, however, once scored heavily off Mr. Justice Jelf in his early days at the Bar. It was in Mr. Justice Grantham's court, and the case was concerned with a barge accident. The master of the barge, whose pronunciation of the English language was in its way unique, was in the box, and, so far as the court could hear, had stated that it was easier to stop a barge under steam than a barge under orders. The future judge jumped at this, and asked sternly, with the air of a man knowing all bargee technical terms and making a point, " And how is it possible to stop a barge under steam more easily than a barge under orders ? " " Our learned friend," said the bargee contemptuously, " does not understand. I said a barge under oars."

Lord Mersey spent five years on the Liverpool Exchange before devoting himself to law. It was not destined to be all plain sailing for him at the first. " What on earth has induced you to come to the Bar ? " was the discouraging question asked by Lord Russell of Killowen, when the future Justice Bigham and Lord Mersey entered the chambers of the famous advocate as a pupil. It was a question that took the pupil some years to answer. During his first twelve months at the Bar the young lawyer earned only seven guineas, though later on, when he had succeeded Lord Russell of Killowen as leader of the Northern Circuit, his income was one of the largest ever earned at the Bar.

One of the best stories he tells about himself is that concerning an old lady's remarks on his appointment to the

position of President of the Divorce Court. "Dear me!" exclaimed the old lady, "Is he going to the Admiralty Division? How very nice. I do trust he will see that we shall have a strong Navy!"

Until a few years ago there was a certain judge distinguished among other things for the unpunctuality with which he began the judicial day. On one occasion, Lord Mersey, then one of the busiest advocates in the Common Law Courts, waited twenty-five minutes for his arrival. Having a second case to attend to in another court, he went out to see how it was faring, and while he was away the unpunctual judge made his appearance on the bench. "I have waited five minutes for you, Mr. Bigham," exclaimed the judge impatiently, when the busy counsel returned. "My lord," was the bold retort, "I waited five times as long."

It is seven years ago since the Rt. Hon. Sir Robert Romer relinquished his judicial labours, after having served rather over the period necessary to secure a pension—nine as a judge of the Chancery Division and seven as a Lord Justice of Appeal. As a sportsman, "Punch's son-in-law," as he has been termed—for Sir Robert married the daughter of the late Mark Lemon, the famous editor of *Punch*—has gained a distinct reputation, and, though not among the jocular judges, his judgments occasionally had a flash of humour.

In the Court of Appeal the three judges gave judgment in the order of seniority. On one occasion, when he was the junior member of the Court, Lord Justice Romer said, "I agree," out of his turn. Lord Justice Rigby, who was the second member of the Court, was equally in agreement with the judgment that had been delivered by the late Master of the Rolls, but deemed it necessary to give at length the reasons for arriving at the same conclusion. "I still agree," quietly remarked Sir Robert Romer, when his more voluble colleague brought his observations to a close.

After he took his degree and before he got into practice, Sir Robert dabbled in literature. "I reviewed," he says,

" for *The Athenæum*, and for a short time for *The Pall Mall Gazette*, when it was edited by Mr. Leslie Stephen. I remember a curious incident in connection with this work. I had written a rather severe review for *The Athenæum* on a novel, and shortly after I met my friend, Mr. William Bradbury, of the firm of Bradbury and Evans, publishers. In the course of conversation he referred in the strongest possible language to this review, which turned out to be one of the novels published by his firm, and he denounced the villainy of the writer of the review. I had to confess that I was the villain in question, and, with his usual goodness, after a time he granted me absolution for my sin, but I did not retract any of the strictures I had passed on the work."

Sir Robert's literary tastes survived his laborious days in the Chancery Courts. Some few years ago, in one of the legal journals there appeared some lines addressed to "Miss Equity," in which the writer, while admiring her beauty, described her principles as weak. "The Reply of Miss Equity," written by Sir Robert Romer, was as follows :

" My beauteous features you extol,
Because I plainly show them ;
My principles appear but weak,
Because you do not know them."

Concerning his early experience at the Bar, Sir Robert tells this amusing story. "I was offered," he says, "a brief for the defence of a woman who was rather a notorious criminal. She was charged with stealing from a shop a piece of money which the proprietor had placed on the counter. The evidence against her seemed overwhelming, but a happy idea occurred to me, and in the course of my speech I told a story about an old gentleman I knew who was subject to fits, and was very fond of playing whist. I said that whenever he found one of his attacks coming on he always swept up all the money that was on the table and put it into his pockets, and that it was a curious thing that the attacks invariably happened when he was losing ; but when he recovered he never remembered

anything about having taken the money. The jury was amused at the idea, and when I pleaded that perhaps the same aberration occurred with my client they gave her the benefit of the doubt, and brought in a verdict of 'Not Guilty.' As soon as the prisoner left the dock, she came to me and promised that whenever in future she got into trouble she would always see that her solicitor instructed me to defend her. Unfortunately for me, however, the possible advantage I may have derived from a client of that sort was lost to me, for I soon after went to the Chancery Bar.

"As a rule the work of that Bar is somewhat dull ; yet there were one or two curious cases I was engaged in. One of the earliest pieces of work I got was from a solicitor who had been a college friend. He was instructed to act for a gentleman to whom litigation was as the breath of life, and whose sole enjoyment seemed to be the prosecution of the many law-suits in which he was engaged. We, being somewhat inexperienced, considered the best thing we could do in our client's interest would be to settle his disputes to the best advantage, as we thought they must be harassing and expensive, to say the least. The solicitor, therefore, made the best compromise possible, and I drew the drafts of the deeds which our client signed in the belief, as it appeared, that they were committing him to more litigation. When he found that this was exactly what they did not do, and that the chief interest of his life had, as it were, come to an unexpected end, he was so angry that he actually brought an action against the solicitor for negligence, and would, I have little doubt, have brought an action against me, only that the law does not permit barristers to be proceeded against in this way."

WITTY LAWYERS AND MAGISTRATES
WITS IN ERMINE

PART II

CHAPTER II

WITTY LAWYERS AND MAGISTRATES

WITS IN ERMINE

PART II

“Lawyers’ houses are built of fools’ heads.”—*French Proverb.*

AMONG present-day K.C.’s there is, perhaps, no man of readier wit, or more sarcastic tongue, than Sir Edward Carson, although one must not forget his doughty opponent in many famous cases—Lord Reading to be, present Lord Chief Justice, formerly Sir Rufus Isaacs—or “the rising hope of the Tory Party,” the Right Hon. F. E. Smith, a young man—as age goes nowadays—whose pungency of utterance is only equalled by his candid assertiveness in court, Parliament, and on political platform.

One of the best examples of the spontaneous wit of Sir Edward Carson is, probably, that furnished by an incident which once occurred in court, when the judge pointed out to him a discrepancy between the evidence of two witnesses—one a carpenter and the other a publican. “That is so, my lord,” he replied. “Yet another case of difference between Bench and Bar.”

Sir Edward, however, cannot be said to be usually genial in his methods. As a matter of fact, it is the icy, biting style he adopts towards hostile witnesses which has contributed much to his reputation as the most successful cross-examiner of the day. On one occasion he was briefed to defend some Trinity College students, who were charged at the Dublin Police Court with assaulting a bookmaker at a regatta. Regarding him as a “welsher,” the students were just going to throw him into the sea, when the police intervened. “How did you

know that they were going to drown you ? ” asked Carson. “ Is it how did I know ? Begorra, I knew right enough. Didn’t they howld me by th’ leg over the say wall ? ” “ Which leg ? ” interjected Carson. “ Was it the black leg ? ” After this the prosecutor collapsed. He was afterwards heard to say : “ Ah, bedad, ye may say what ye like, but that Carson’s a champion. He’d puzzle and fluster the devil himself.”

In the old days of the Balfour regime in Ireland, Sir Edward was examining witnesses on the subject of land values. The first gentleman who entered the box had a host of details in his pocket-book as to the acreage, quality, and possessions of the small estate.

He was followed by Mr. Murphy, an independent witness, who corroborated his predecessor with amazing accuracy. Even to the last chicken and inch of ground were the two reports identical. “ Do you know the last witness ? ” said Sir Edward, in his rich Irish brogue.

Mr. Murphy looked innocently at the counsel, and answered, “ No.” Sir Edward Carson looked solemnly at the man, and asked Mr. Murphy, “ Did you ever come across a coincidence ? ”

The witness carefully examined his book, then, turning to his questioner with a gleam of light in his eye, replied : “ Yes, I did, Mr. Carson, but I forgot to put it down ! ”

It was in those turbulent days that the Solicitor-General of 1900-6 asked a parish priest of his acquaintance what his parishioners (one or two of whom had had the misfortune to appear in the dock on political charges) thought of the man who conducted the prosecutions.

“ Well,” came the pithy answer, “ if they hated Satan half as much as they hated you, I should be out of work.”

One of the best examples of Sir Edward’s trenchant wit is afforded by one of his early cases, in which he was opposed by an elderly, prosy, long-winded lawyer in an assault case.

The elderly lawyer, in his concluding address, spoke for six hours—an interminable, foggy, stupid speech. Then

his opponent rose. He smiled slightly, looked at the judge and jury, and said :

“ Your honour, I will follow the example of my learned friend who has just concluded, and submit the case without argument ! ”

Even more cutting was his rejoinder to a witness he was once cross-examining, with an obviously red nose. “ You drink, my man,” was the counsel’s blunt remark. Witness : “ That’s my business.” Sir Edward (blandly) : “ Any other business ? ”

Sir Edward has a number of amusing stories to tell of his early days. There is one concerning a case he once undertook in Dublin. As he was going into court a man gave his gown a pull, and said : “ Look here, counsel, you have a bit of a case for Mick O’Dwyer, haven’t you ? ”

“ I have. What about it ? ” asked counsel.

“ Well,” said the man, with the air of a financier, “ I am Mick O’Dwyer, and if you win this case I will give you five bob for yourself.”

Carson won it ! He has never told whether he took the magnificent bribe, however !

It is fairly well known that Sir Edward Carson started his career originally as an architect, and curiously enough his first case had to do with buildings. And it is anent this first case that he tells a story which would seem to suggest that the ways of some judges are, to say the least, peculiar. He was a County Court Judge of advanced years, and an important point of law being involved, Sir Edward went down armed with a mass of authorities, and proceeded to argue the case at great length. He was delighted to see that his honour was taking an elaborate note, occasionally asking for a slight pause during which to enter some vital point. Presently, however, the young advocate noticed that the judge was writing with the feather end of his quill pen. The argument then came to a rapid conclusion, and judgment was reserved. A day or two later he met the judge. “ Oh, my dear Carson,” said he, “ I have mislaid my notes in your case. Would

you mind sending me a summary of your argument?" The summary was sent, and Sir Edward won his case.

The resemblance between Sir Edward Carson and Lord Reading is somewhat remarkable. There is the same gaunt, clean-shaven face, prominent nose and colourless complexion. In general build, too, they are much alike. While Lord Reading, however, talks in a quiet, incisive manner, with a clear enunciation, Sir Edward has not lost the rich brogue of the typical Irishman.

The story goes that a couple of Irishmen, while in London, paid a visit to the Law Courts in order to hear Sir Edward speak. By some mistake they found their way into a court where his lordship was engaged on a case, and, not being very familiar with Sir Edward's appearance, mistook Lord Reading for him. For a little while they listened to the Attorney-General's address to the jury, and then one turned to the other and said, somewhat disgustedly :

" He may be a clever lawyer, but he's no true-blooded Irishman. He talks pure English, and has either forgot his mother tongue or is ashamed of it."

That Lord Reading has just claims to be regarded as a humourist is evident from the rules which he has laid down on "How to Become a Successful Lawyer." "There are but three things essential to success at the Bar," he says. "The first is high animal spirits, the second is high animal spirits, and the third is high animal spirits. If, in addition, a young man will take the trouble to read a little law, I do not think that will impede his progress."

The Lord Chief Justice entered Parliament for Reading in 1904, but some years previously he tried to get on to the floor of the House of Commons when members were sitting by circumventing the "bobby" who guards the entrance in Palace Yard. By putting on an air of authority and boldly marching past the constable, he managed to deceive the "man in blue" for a moment. The latter, however, detected the ruse a second or two later, and overtaking the member of the Junior Bar—as

his lordship then was—confronted him with the question, “Excuse me, sir, but are you a member?” “Not yet,” was the reply, “but I am going to be soon.” “I hope you will, sir,” quietly responded the policeman, “but meanwhile would you mind going round the other way?” The “meanwhile” lasted twelve years.

Neither is this the only story which he has told against himself. On one memorable occasion at Chesterfield he addressed an overflow meeting while his then leader, Lord Rosebery, was making a great political pronouncement within the hall.

Sir Rufus—it was before he was elevated to the peerage—was applauded from time to time, but at last was somewhat embarrassed by the boisterous cheering that apparently greeted a minor point he had made. Troubled to account for this, he was about to proceed, when someone touched his arm and remarked: “Don’t you think I had better speak now, Isaacs?”

He turned round, and found Lord Rosebery at his elbow.

But it is as a cross-examiner that his lordship will chiefly live in the memory of witnesses, many of whom regard him as a perfect terror. Not long ago a surgeon, whom he was cross-examining, declared that the famous K.C. had been a nightmare to him for several days.

“I dreamt about you last night,” he said to the lawyer. “I have hardly slept since you let me out of the box on Friday. I dreamt you had examined me, and I seemed to have nothing on except bones.”

Although scarcely humorous, one might introduce here, as testimony to the cleverness of the Lord Chief Justice, the story of an incident of his early days at the Bar, when old Lord Esher used to preside in Appeal Court I. It was a habit of the latter, whenever a young barrister was arguing an appeal, to fire at him terrible questions, raising real or fallacious objections to his case.

It was splendid intellectual gymnastics for the counsel who was sure of himself and his case, but otherwise it was like arguing with a maxim gun. Barristers generally used to regard it as unfair to the advocate and his client

that the train of the former's argument should be constantly interrupted by questions, often entirely irrelevant to the stage of the argument counsel had reached, and sometimes entirely irrelevant to any part of it.

On one occasion, Lord Reading, young, debonair, and urbane, was arguing an appeal, and Lord Esher fired off question after question.

Each one the smiling counsel would handle with the dexterity of a juggler catching a cannon ball. He would give it suitable answer and then would return without the loss of a sentence to his argument at which he had been interrupted.

A few minutes later Lord Esher would fire off another question, which the young counsel would treat in exactly the same deferential but decisive manner.

The other two judges sat looking on, and everybody in court was watching this duel between that keen, rasping, old intellect, and the rapier thrust of the youthful Mr. Isaacs.

At last Mr. Isaacs sat down, and Lord Esher—who had his good points—did an almost unprecedented thing. There was a whispering between the three judges, and then Lord Esher said: “Mr. Isaacs, the Court desires me to thank you for the manner in which you have argued this appeal.”

There was no “scene” just then, and the case went on, but the incident made a deep impression on at least one of Mr. Isaacs’ auditors. Lord Esher was one of the first to recognise Lord Reading’s real ability. There was an occasion when, as a little-known junior, he was trying to force his view of law on the Court of Appeal. Lord Esher, who presided, disagreed, remarking: “I know you are wrong, Mr. Isaacs, and in twenty years’ time, when you are Lord Justice Isaacs, you will agree with me.”

Allusion has been made to the wit of Mr. F. E. Smith. Before giving one or two examples, it may be permissible to mention a witticism at his expense perpetrated by the late Justice Grantham. The learned judge had been having a prolonged argument with the “rising hope of

the Tory Party," during the greater part of the sitting of the Court, and upon its rising he entered a friend's motor-car to drive home. Passing a building in the Strand in course of erection, the judge asked what the place was intended for. "Oh, those are to be the offices of the Victorian Government." "Is that all?" remarked Sir William, with a smile, "I thought from their size that possibly they were to be F. E. Smith's new quarters."

His quickness of repartee is one of Mr. Smith's most notable characteristics. He was addressing a meeting in connection with a by-election some time ago, and was holding forth on Tariff Reform. "What about our food?" was the insistent question of a man at the back. At length, Mr. Smith could stand it no longer. Calmly he turned towards his interrupter and said sweetly, "You need not have any concern, sir; no one has ever proposed to put a tax on thistles. Your food will be quite safe."

His epigrams are legion, while his biting humour has made many an opponent writhe.

He once commented on Mr. Gladstone's passion for elaborate exposition. "Mr. Gladstone," he said, "carries lucidity almost to the verge of baldness." And he thus referred to the death duties: "One section of the community lives to enjoy old-age pensions; the other has to die to pay them."

A certain member had been returned as a Unionist, but when the House assembled had immediately crossed the floor without seeking re-election.

"He entered the House," said Mr. Smith, with quiet sarcasm, "not on the crest of a wave, but rather by means of an opportune dive. Everyone in the House must appreciate his presence, for there could be no greater compliment paid to it than that he should be in our midst, when his heart is far away. And it should be obvious to all who know the honourable gentleman's scrupulous sense of honour, that his one desire at present is to be amongst his constituents, who are understood to be at least as anxious to meet him."

To Mr. Smith has been attributed the witty reply to the questioner at a social gathering, who inquired as to the identity of a certain lady whose scanty gown enabled her to display somewhat more of her physical charms than is consistent with good taste.

“Oh, that is a Russian lady of distinction—the Princess Shemizoff, *née* Orloff.”

Mr. Smith once made an amusing remark about his friend, Mr. Churchill. The latter, as Under-Secretary for the Colonies, was engaged in “mothering” some small Government measure. “There are many more ways of addling a political egg,” said the member for Walton, “than by giving it to an Under-Secretary to sit upon.”

And at Oxford he made the following delightful observation on the Old-Age Pension Act. It was before that measure had been amended. Mr. Smith said: “The pious Liberals—they give you seven-and-six a week for living with your own wife, and ten shillings a week for living for somebody else’s.”

It is a legend at Wadham College, Oxford, that Mr. F. E. Smith and Sir John Simon, the Attorney-General, tossed up as to which political party each should join, it having been suggested to them that two such brilliant men could not belong to one and the same party. Some ‘Varsity jester probably gave rise to the story, but it is a fact that no more brilliant men have been turned out from Wadham at one and the same time. Sir John Simon is a year younger than Mr. F. E. Smith, the former having been born in 1872, and both were marked out for distinguished careers soon after they were thirty.

Indeed, the appointment, at thirty-seven years of age, in 1910, of Mr. J. A. Simon, K.C., to be Solicitor-General, in place of Sir Rufus Isaacs, made him the youngest man of modern times to hold that appointment. Lord Selborne, who spent twelve years as a junior, became Solicitor-General at forty-nine; Lord Halsbury at fifty; Sir Robert Finlay at fifty-three; Lord Robson at fifty-four; Sir S. T. Evans at forty-nine; and Sir Rufus Isaacs the same age.

The son of a Bath Congregational minister, Sir John Simon greatly distinguished himself as a student at Edinburgh and Oxford, and was called to the Bar in 1899. He became Solicitor-General in 1910, and thus only took eleven years to win one of the biggest prizes in the legal profession. Sir Edward Carson declared once that Sir John, as a junior counsel, was the ablest he had ever known.

As a legal humourist, however, Sir John Simon has not a great reputation, although he can be witty at times.

In replying to the argument of a learned counsel to the effect that the continual use of certain letters in combination (such as the W. & G. taxicab) may constitute a trade-mark, the Solicitor-General began his speech by saying: "My learned friend's argument would have startling results. For example, if your lordship were to call for 1 B. & S., the usher would at once hand you the first volume of Best and Smith's reports. But, happily, the well-established meaning of 1 B. & S. does not preclude the use of the same formula for other and perhaps more generally popular purposes."

Sir John relishes a good story, and one told concerns a group of Scotch lawyers who met convivially at an Ayrshire inn one cold evening. The conversation turned upon pronunciation. "Now I," said one of the barristers, "always says neether, while John here says nyether. What do you say, Sandy?" The hot tipple had made Sandy doze, and at the sudden question he was aroused, and replied: "I? Oh, I say whusky."

At the same legal gathering where Sir John Simon related this story Mr. Richard Loveland Loveland, K.C., recounted the following. The motorist was travelling at an awful speed. He didn't see the dog, but he heard his "ki-yi," so he ordered the chauffeur to stop. Then, stepping out of the car, he found an irate lady standing over her dead pet, one of the ugliest brutes imaginable.

She met the motorist with a tirade of remarks, telling him in no uncertain terms what she thought of him and motoring in general, finishing up by calling him a murderer.

It was then he thought he would pacify her. "Madam," he said, "I will replace your dog."

"Sir," she said, in a freezing tone of voice, "you flatter yourself!"

When, in 1896, Sir Douglas Straight finally abandoned legal for literary work, and became editor of the *Pall Mall Gazette*, there were those who shook their heads in disapproval, contending that Sir Douglas's reputation would suffer, and that the paper would not be the gainer. But, as we all know, Sir Douglas during the time he occupied the editorial chair of the *Pall Mall Gazette*—1896–1909—added a new and large chapter of achievements to his career, and to the history of this leading Conservative organ.

As a matter of fact, in quitting the Bench and Bar for the editorial chair Sir Douglas was but returning to his first love. When he left Harrow he went to London, and, with a view to making a little money, turned his attention to journalism. An evening paper, *The Glow-worm*, had just been started, and Mr. Straight was one of its principal contributors. Montagu Williams has told with considerable humour the story of his first meeting with Sir Douglas. "As I was crossing Waterloo Bridge one day," he says in his reminiscences, "I saw a young man go up to two newsboys and soundly cuff their ears, their offence being that they had failed to call out *The Glow-worm* in a sufficiently stentorian tone. It was Douglas Straight."

When Straight and Williams were at the Bar together they were usually spoken of as "the twins," because of their friendliness. On one occasion they had been fighting a case against each other at the Guildhall. On leaving the Court they went off together arm-in-arm to the place where they had agreed to lunch. A bystander, who had listened to the controversy in the Court, observed sarcastically, "Lor, Bill, ain't we been sold. It's all a put-up job. Just look at 'em now—arm-in-arm, roarin' a-larfin'."

Both in law and literature Sir Douglas has proved

himself one of the most popular of men, and one might mention here the amusing and embarrassing tribute paid to him by forty-nine of his lady admirers, including many leading society ladies and actresses, who when he retired from the editorship of the *Gazette*, entertained him at luncheon at the Carlton. It should be explained, in the first place, however, that he went to the luncheon without the slightest suspicion of the reception which awaited him.

It was Mrs. Kendal who laid the plot and invited Sir Douglas to a luncheon at the Carlton. When he arrived at the hotel he found himself surrounded by forty-nine of his women admirers, who had adopted this ruse, knowing well that the heart of any man would quail before the prospect of being the only male present at a luncheon with forty-nine women.

A becoming blush spread over Sir Douglas's features when he saw how he had been entrapped ; and he blushed still more when, after lunch, Mrs. Kendal proceeded to read from a presentation portfolio :

“ Who, never in his paper said
An unkind word, but always led
The first applause ?

Why—Douglas !

“ Who, when he saw a pretty face,
Exclaimed : ‘ Hullo—what beauty, grace,
Do I now see ? She’ll run the pace ’ ?

Why—Douglas !

“ Then now if forty-nine mixed girls,
In all their best with smiles and curls,
Do not enthrall you—then, ‘tis clear,
There’s something wrong,

Oh ! Douglas, dear !

“ And so we pray that you will take
This tiny offering for our sake,
Brimful of kindest thoughts for you,
So please accept it,

Douglas, do !

“ Douglas, we call him, but his name is Straight.
 Just Straight in everything—he’d never wait
 And let a friend go under—only a few,
 A very few, can match our Douglas—
 Douglas, tender and true.

“ And if to-day we drop a tear
 At Friendship’s shrine, it is sincere:
 May health and happiness attend
 On all your life—you dear old friend,
 May God bless Douglas !

“ Stand, 49, wave handkerchiefs, send kisses—
 ‘ Straight’ from your hearts, and then two wishes,
 Good Luck ! Long Life ! in silence say ;
 Three cheers for Douglas—Hip ! pip ! pip ! hooray ! ”

Without doubt one of the greatest legal-parliamentary wits of to-day is the Irish Secretary, the Right Hon. Augustine Birrell, K.C., M.P., who can be satirical as well as genial at times, as may be gathered from the retort he made in his early days to a colleague who reproached him because he took up a poor client’s case for nothing. When the case had been won, the client gratefully sent him the sum of 15s., which Mr. Birrell accepted in order not to give offence. The result was that a colleague said his conduct was “ unprofessional,” in taking less than gold.

“ But I took all the poor beggar had,” said Mr. Birrell, “ and I consider that is not unprofessional.”

The wit and humour of Birrell’s speeches and conversations is proverbial. What, for instance, could be happier than his reply to the bishop who condoled with him on the death of his Education Bill. The President of the Board of Education, as Mr. Birrell then was, replied, with a merry twinkle in his eye :

“ Yes, my lord, the Bill is dead, but I believe in the resurrection of the dead.”

One of his best epigrams was that which he applied once to the Upper Chamber. “ The House of Lords,” he said, “ represent nobody but themselves, and they enjoy the full confidence of their constituents ; ” while

of the Press he has said : “ I agree that the Press is a mirror of the age. It reflects what people are supposed to want, far more than what they really want.”

Few people know what Mr. Birrell said when he heard that the Crown jewels had been stolen from Dublin Castle. The visit of King Edward to the Emerald Isle was nearly due, and it was part of Mr. Birrell’s duty to walk backwards as the king advanced, and to carry his big Sword of State.

Many as are Mr. Birrell’s accomplishments, walking backwards is not one, and he looked forward to the occasion with the liveliest emotion. When, therefore, the horror-struck officials announced the disappearance of the regalia Mr. Birrell replied : “ Good heavens, I hope they remembered the sword ! ”

Among the stories which Mr. Birrell tells, is one concerning an old judge, a friend of his, who had been in the habit of taking three glasses of port every day after dinner.

But the doctor advised him to stop it, and he did so for four years. Then, not feeling much better, he went and consulted the doctor again, who said he might resume his former habits.

“ That’s all very well,” said the judge ; “ but what about the arrears ? ”

And it was when he was proposing the toast of the “ Royal Society of Medicine,” at the annual dinner, at the Hotel Cecil, in December, 1908, that Mr. Birrell told the story of his only visit to a doctor.

“ Only once in my life,” he said, “ did I set out in search of a physician for myself. I started on the journey to consult a distinguished doctor who lived in the neighbourhood of Harley Street, and whom I knew was a great expert on the disease to which I thought I was a victim.

“ It was a hot day in July, and I thought the time had come to take my last walk. I walked from my house, which was in the neighbourhood of Addison Road, to Harley Street. The great physician’s rooms were

crowded with patients. While waiting I found on the table a book written by the great physician on the subject of the particular disease. I opened the book, and the first words that caught my eye were, "The patient who is suffering from this disease never perspires." I had Scotch blood in my veins, so I picked up my hat and gloves and walked out, and I have never seen that eminent physician from that day to this."

No less brilliant as a wit is Lord Haldane, who succeeded Lord Loreburn as Lord High Chancellor in June, 1912. Here is an illustration of his manner of meeting an embarrassing situation. Some time ago he was addressing a meeting, and was remarking that the Army had not been his only love, when a lady suffragette made an interjection and another rushed on to the platform and spoke to him. "These ladies," said his lordship, "really chose a most embarrassing moment in my speech. I had just observed that the Army had not been my only love. Let me therefore free myself from misconception. I was about to admit that I had flirted with the Law." Needless to say, the laughter was loud and long, and was renewed when, after a third lady had interrupted, he said: "The last interruption filled me with terror. I have mentioned love, and I have mentioned flirtation. I will therefore avoid any of these delicate topics."

A brilliant scholar and a keen student of philosophy, Lord Haldane received part of his education at Edinburgh University, and afterwards became scholar in philosophy at other Scottish universities. Some time ago, when he visited Edinburgh Academy, where he received part of his earliest education, to inspect the cadet corps attached to the school, he related some interesting experiences.

"It is a great joy to me," he said, "to be once more in the old school. You are, I think, a little more luxurious than we were then. I am told that the boys sometimes spend twopence, and even threepence, on their lunches. Now, we never had more than a penny. . . . I recall how we used to fight for the currant bun and half an albert

across the bar in the janitor's window. The only drinking water that was to be got was in a trough under the swaying bodies of the mass of boys fighting to get their lunches, and you dipped down as well as you could and got a jugful of water and crumbs, and slaked your thirst for the day. It was a good, hardy time."

In taking up the appointment of Lord Chancellor, Lord Haldane went back to the sphere of activity which knew him before he attained eminence as a politician. It was in 1879 that he was called to the Bar, taking silk eleven years later; and although he has put it on record that in his first year as a barrister he made only £30, and thought of going to Hong-Kong, it is estimated that before he became War Secretary his income did not fall far short of £20,000 a year. The marvel was, in those days, that Lord Haldane, while working twelve and fourteen hours a day at law cases, also found time to take part in political strife, to be Chairman of Committees, governor of important bodies, and to write bulky volumes on abstruse questions in philosophy.

One gets a good illustration of Lord Haldane's sense of humour from the story he tells, much against himself, of how he became War Minister, and why. "Seven years ago," he said in October, 1912, "when a new Ministry was being formed, Sir Henry Campbell-Bannerman sent for me, and suggested one or two offices.

"I replied to him: 'There is another office I should like. I do not know much about it, but it is full of most fascinating problems.'"

Sir Henry asked: "What is that?"

"The War Office; is it full?"

Sir Henry exclaimed, "Full! No one will touch it with a pole."

Here is another story which Lord Haldane tells against himself. "I remember," he says, "in 1898 being very anxious to get a Bill through Parliament for the establishment of a teaching university in London—there was only an examining university—and I went to Mr. Chamberlain, who was then very influential in the Government.

Mr. Chamberlain said to me: 'Excellent, but, dear me, there is Birmingham,' and before I knew where I was he had got a charter through for Birmingham, and a teaching university established in Birmingham."

As a raconteur Mr. Marshall Hall, K.C., too, has a distinct reputation, some of the stories of his early days at the Bar being particularly entertaining. One of the best is that concerning a certain County Court action. "I remember many years ago," said Mr. Hall when telling the story, "being taken down to a County Court. I looked at the brief, and found that the whole amount to be sued for was six pounds, while my own fee was more than five times that sum, and I could not make the matter out. It was an action for trespass—seizing a horse in execution, and the sort of horse it can be imagined—and in the end I won. The case took the whole day. Then, when it was all over, I heard that there was a bet of five hundred pounds depending on the result of the case. The parties were all horsey people, and they knew they would get a fair run for their money, and they used me for the purpose of a gamble."

Mr. Hall also tells another amusing story of his early successes. He had just got rid of his wig and gown in the robing-room, and was preparing to go off to lunch, when, to quote his own words, "I was touched on the shoulder by a man I had never seen before, and was asked if I would take a brief, which was then handed to me, marked with the enormous fee of eight guineas. It was an action against the London General Omnibus Company, and I hastily read through the proofs.

"I turned round to the solicitor and said: 'You haven't got a leg to stand upon.'

"He said, 'What do you mean?'

"'Well,' I said, 'the plaintiff cannot win this case.'

"'I am glad to hear that,' he replied, 'for I am instructing you on behalf of the Company.'

"My feelings can be better imagined than described. Here was, indeed, a bit of luck. I did the case, which had been returned unexpectedly by a well-known member

of the Bar, and lost it. I applied for a new trial, and got it."

Concerning the lighter side of his work Mr. Hall tells a story relating to a witness whom he once asked to give a definition of absent-mindedness.

"Well," said the witness cautiously, "I should say that a man who thought he'd left his watch at home an' took it out o' his pocket to see if he had time to go home to get it—I should say that that chap was a little absent-minded."

Whether it is because they see too much of the sad and seamy side of life, or whether they fear comparison with Mr. Plowden, the genial Marylebone Court *cadi*, it is difficult to say ; but the fact remains that as humourists our magistrates are not generally distinguished. Occasionally a flash of wit and humour illuminates the local courts, but as a rule it would seem that magisterial levity is tabooed, or at any rate strongly resisted, during Court proceedings, although in private life our magistrates as a rule are the most genial of men.

For a quarter of a century, for instance, Mr. James Reader White Bros has listened to pitiful tales of London life at the Clerkenwell Court, and has never been known to be guilty of anything approaching a joke. But he possesses a power of grim, caustic sarcasm that bites deep.

"I am afflicted with kleptomania," wailed a fashionably-dressed shoplifter.

"Indeed," rejoined Mr. Bros, an undertone of mock sympathy in his voice, "it must be very bad to be afflicted like that. It is lucky for you that you came to me, for I possess an excellent cure for that malady—namely, six weeks' hard labour."

The story reminds one of the genial irony of the late Sir Albert de Rutzen, who was credited with a remarkable memory for faces—a very valuable quality in a magistrate. Indeed, it was almost useless for a malefactor to pretend that he had never previously appeared before him. On one occasion a prisoner, thinking to get off with a light

sentence, said that he had never appeared in the dock before. The magistrate, however, refreshed his memory with the remark that they had met under similar circumstances many years ago.

“ ‘E ain’t a beak,’ ” muttered the discomfited one, amidst a storm of laughter from the Court ; “ ‘e’s a book ! ”

On another occasion he astonished an old lady who had been hoping for many years to obtain some thousands of pounds for breach of promise to marry, alleged to have been made to her in her youth. “ I know all about it, ” said Sir Albert, “ you spoke to me about it twenty years ago. I then advised you to instruct a solicitor. The advice I now give you is the same.”

Sir Albert’s successor as chief Metropolitan Magistrate, the late Sir Henry Curtis Bennett, was also the possessor of an exceptional memory, and it was not unusual for a formerly convicted prisoner, who was congratulating himself that the “ beak ” would not remember his side-slip of five or six years previously, to be suddenly dumbfounded with the remark :

“ You and I have met before.”

A good raconteur, Sir Henry had a big stock of anecdotes for disposal. One recounted by him had a military flavour.

“ Cracker ” Johnson was up before the O.C. again. Luck had been dead against him the previous night, when having a friendly argument with a red-cap.

“ I’m sorry to see you here again, Johnson, ” said the colonel, “ for I take a great interest in you. I’ve known you ever since you were a boy, and, as you know, your father was my colour-sergeant. In these circumstances I shall not punish you so much as I would otherwise have done. Fourteen days’ C.B. ! ”

“ Thank goodness ! ” gasped poor old Cracker.

“ What do you mean, sir ? ”

“ Thank goodness, ” went on Johnson, “ you didn’t know my grandfather ! ”

But of course there is no magisterial humourist like Mr. Plowden, although his reputation is seriously

threatened by Mr. J. A. Symmons, the magistrate of Greenwich. Called to the Bar in 1885, Mr. Symmons has long been a familiar figure in County Court, common law and criminal cases, and has won a decided reputation for genial wit.

His "learned friends" have come to regard his twinkling eyes, set in the broad, clean-shaven face, as a certain indication of inevitable "laughter in court." Not the least notable of Mr. Symmons' characteristics is his eyeglass. His skill in its manipulation is said to be the envy of the Junior Bar, and many a joke has arisen from its apparent permanence of position.

In a certain case, before his elevation to the Bench, counsel opposed to him was explaining to the Court the distinction between a "toff" and a "real toff." The latter, said this authority, could be recognised by his monocle.

Mr. Symmons immediately rose to his feet. With great gravity he remarked: "There are illustrious exceptions, m' lud."

He it was, too, who gave the famous definition of "nagging," which won approval from such a keen critic as Mr. Justice Hawkins. Mr. Symmons was defending a man charged with hitting his wife on the head with a chopper. His remark that the prisoner had been the victim of persistent "nagging" drew a request from the judge for a definition of that word.

"Nagging," said Mr. Symmons readily, "is the constant reiteration of unpleasant truths."

"We must put that in the next edition of Walker's Dictionary," said the judge, with an approving smile.

But see Mr. Plowden and die. At any rate that seemed to be the view of a little old man who not so very long ago appeared at the Marylebone Court and said he was a travelling poet.

"I have," he said, "seen and heard all the famous men of the present generation. I have come to see and hear the far-famed Mr. Plowden."

Mr. Plowden: "What is your legal complaint?"

The Poet: "What is my cheapest and quickest mode,

as I am not a millionaire, of suing the Great Western Railway for giving up my bag at Gloucester?"

Mr. Plowden: "You must go to a solicitor if you want advice on that point."

The Poet: "I have achieved my object. I have seen all the sights of London, and now I have seen you, and that is sufficient. I am going back to the American continent. Hoorah!"

An exaggerated tribute, maybe, but the proverbial wit and humour of Mr. Plowden is its excuse.

"My landlady started calling me all sorts of names, and of course I retaliated," said a woman to him one day in applying for process for assault.

"Yes, of course," remarked Mr. Plowden.

"Oh! she's a bad woman," said the applicant, with emphasis.

"Yes, yes, the world is full of them," commented Mr. Plowden, "and has been ever since the Garden of Eden."

Applicant went on to say that her landlady had promised to make it up.

Mr. Plowden: "But you don't expect a woman to keep her promise. You are much too reasonable for that. Give her time, and she will probably do it again."

Mr. Plowden has often aired his views on the opposite sex.

"A man hit me, and I hit him back," a woman said to him one day. "Yes," he replied, "you wouldn't be a woman if you didn't, nowadays."

The following are some of his choicest epigrams on women, mostly arising from the trials of militant suffragettes.

"The whole nature of the sex is altered."

"Young women show a complete absence of anything like self-control, and a complete contempt for law and order."

"Women now have almost got the upper hand, and a woman with a broom can scatter any number of men, judging by present-day appearances."

"In dealing with ladies it is exceedingly unwise to

forecast anything. I am an admirer of the sex, but my experience warrants me in saying that."

"It would seem that woman's nature is undergoing very considerable modification in the twentieth century," he said, in fining a woman for assault. "The doves are changing into eagles, and the sweet reasonableness that used to distinguish the sex is giving place to a love of advertisement and a taste for unseemly scenes of rowdyism and violence.

"Even the hatpin, designed for such innocent purposes, is becoming in the hands of women as much a weapon of danger as the stiletto or the revolver."

Prisoners plead strange excuses to him for leniency sometimes.

"I am subject to hysterics," said a woman charged with being drunk. "I was on the top of an omnibus, and the wind overcame me."

The winds of November were approaching. Mr. Plowden eyed her solemnly. "You have a trying time before you," he said. "What will happen to you in a gale of wind I shudder to imagine."

"Every domestic trouble imaginable is brought to my notice," once said Mr. Plowden, "from cock-crowing to the bursting of boilers."

How well he deals with such cases is best illustrated by a few anecdotes.

"My wife comes home two or three nights a week," complained a labouring man. "She also throws lighted lamps at me. I had to walk about all last night because I was afraid to go in."

"Why do you come here to get courage?" was Mr. Plowden's quick retort.

"If something isn't done I shall leave her," resumed the man, ignoring the question.

"And then she will summon you for maintenance," remarked the magistrate reflectively.

"Then what am I to do?" moaned the applicant.

"The very best you can," replied the *cadi* diplomatically, calling for the next application.

Two tiny boys had stolen some milk, left unguarded in the open street by a tradesman. They pleaded that they were thirsty.

"What can you expect?" cried Mr. Plowden. "To leave cooling drinks about in summer weather is a temptation to the thirsty. What would you think of a jeweller who hung up his watches outside his shop? The prisoners are discharged."

On another occasion the Court happened to be filled with hotel and inn proprietors during the hearing of an important case. Mr. Plowden was quick to notice it. Gazing round with a smile, of which only he knows the secret, he remarked: "There seem to be more publicans in Court than sinners."

"Have you any friends?" he said on another occasion to a prisoner. "None," was the reply. "That may be an advantage," was the magisterial comment.

The wit of Mr. Plowden is more appreciated because it is of the kindest. He never intentionally makes a jest calculated to wound anyone's feelings. With hooligans and hardened prisoners he does not joke, but he is by no means averse to a quip at the expense of a too vigilant policeman. Some time ago a man was brought before him charged with disorderly conduct. The constable said he had heard a noise in the dead of night, and, going round the corner, found the prisoner and another larking about and laughing. "Why should they not laugh?" asked Mr. Plowden. "It was long after midnight, and in a respectable neighbourhood, your worship," replied the policeman. "Can you alter the character of the neighbourhood by laughing?" inquired Mr. Plowden. "Do you ever laugh? Are you a constable without a smile?" Then, turning to the prisoner, he said: "Laugh as long as you can in this world. You are discharged."

Which reminds one that a short time ago a man was brought before Mr. Plowden at Marylebone Police Court, charged with "wandering abroad and lodging in the open-air in the vicinity of Regent's Park." A constable stated that he found prisoner lying asleep on the footway

about five o'clock in the morning. He woke him up and cautioned him.

Mr. Plowden : "What for ? If he is asleep he is not wandering, unless he is wandering in his sleep. You were wandering, perhaps ? "

The constable stated that the man habitually slept out at night, and was getting into a terrible condition.

Mr. Plowden : "But why shouldn't he sleep out if he likes to ? He doesn't do any harm to anybody but himself."

To the prisoner, who urged that he slept out all night because he hadn't enough money to pay for a lodging, Mr. Plowden said : "Well, I am not going to punish you for this. I am only sorry you were disturbed in your sleep. You are discharged."

And there is sound wisdom in his remark to the prisoner who said : "I am sorry to say I fell asleep." "Don't apologise for that," remarked Mr. Plowden ; "it is the most delightful thing in the world."

At Brooks's they tell the story of how Mr. Plowden was once discussing beverages with a fellow-member. "Have you ever tried gin and ginger beer ?" asked the other. "No," replied Mr. Plowden, "but I've tried a lot of fellows who have."

Not long ago Mr. Plowden cracked this little joke at the expense of a teetotaler—a lady who was charged with being drunk and incapable. Constable stated that as she seemed unable to stand by herself, he came to the conclusion that she was the worse for drink.

Mr. Plowden : "What made you think she was drunk ? "

"She was unable to stand."

Mr. Plowden : "A lot of people cannot stand, but they are not drunk."

The prisoner urged that she was not drunk, but ill. She had been shopping, and, feeling faint, had decided to get into the open-air. What happened after that she did not know. She declared that she was a total abstainer, and had never touched anything intoxicating whatever.

Mr. Plowden said he was quite disposed to believe all that she said, and did not believe that she was drunk.

"Perhaps if you hadn't been a total abstainer," he added, "but had taken a little nourishment, you wouldn't have been ill. These are the joys of martyrdom. If you are a teetotaler and fall about the streets you must take the risks. You are discharged."

As one might imagine, Mr. Plowden has no exaggerated idea of his own importance, nor of the dignity of his office. "My clerk and I," he once said, in describing how the business of the Marylebone Police Court was carried on, "form an ideal partnership; he listens without deciding, while I decide without listening."

It is an incident which recalls the remark of a certain stipendiary who was remarkable for the modesty which accompanies wisdom. Once, after a long investigation of the facts of a case, he publicly confessed that his knowledge was not sufficient to enable him to decide it. "Pray," said a portly bystander, "do you expect the community to pay you for your ignorance?" "I do not," meekly answered the magistrate. "The community pays me well for what I know. If it were to attempt to pay me for what I do not know the treasures of the city would not suffice."

Mr. Plowden tells a good story of his appointment to magisterial rank in 1888. "When I first obtained my appointment as stipendiary," he relates, "full of zeal for my new office, and rejoicing at having at last a chance of doing a day's work before I died, I went to see my chief in order to get hints from him as to how I might make myself most efficient for my duties. 'Let me see, Plowden,' said he, 'you had better——er read the Pawnbrokers' Act, and get in a supply of French novels, and I think you'll be all right.' Well, I got the French novels, but I never read the Pawnbrokers' Act, and have never regretted not having done so."

Of his early days, Mr. Plowden tells an entertaining circuit story concerning Mr. L——, a certain talented and highly-cultured member of the profession, who, however, mainly through absent-mindedness, was usually to be seen in a most slovenly and unkempt condition.

On a certain grand night at mess, a wag got up at the table and proposed the toast of the Baths and Wash-houses of the Oxford Circuit, coupled with the name of Mr. L——. The "draw" was successful. L——, with the modesty of a freshman, rose to return thanks, blushing with delight at the compliment that had been paid him. Notwithstanding the peals of laughter that accompanied his remarks, he continued to speak in a strain of unsuspecting earnestness, and resumed his seat quite unconscious of the joke that had been played on him.

He also tells the story of a man who had over-estimated his capacity for the amber fluid, and who was arrested. In the Police Court the next morning the usual charge of intoxication was filed against him, and he was fined twenty shillings, which he promptly paid. This done, he went out with a worried expression on his countenance, only to return a few minutes later and cautiously approach the clerk.

"Please, sir," he said, "would you just give me a receipt for that twenty shillings I paid you? I want to show my wife I didn't spend all my money on drink."

Illustrations of Mr. Plowden's inimitable humour have been afforded at several public gatherings, and the infection of his breezy spirit spread to the members of the Head Chauffeurs' Club of Great Britain and Ireland, who entertained him at their annual dinner in December, 1911. In his speech the genial magistrate referred to the addresses recently delivered by the Dean of St. Paul's on the Spirit of the Age, and said it seemed to him that the critics had missed the point of the whole affair in assuming that the spirit of the age was democracy. "Why, gentlemen," he continued, "the spirit of the age is not democracy. It is petrol, and the wizard who wields it is that independent being who darts like lightning through the streets and refuses to lower his flag for anything less than eightpence. You all know what travelling was in the old days, when highwaymen lay in wait for the coachmen on bare and blasted heaths. Well, it seems to me that the modern chauffeur is a combination of two characters.

He has all the steadiness of the coachman and just a dash of the inimitable highwayman. I can assure you," he said, as he resumed his seat, "that next time we meet I shall fine you with more confidence than ever I did before."

Even more humourous were his remarks to members of the Press Club in 1909. During the course of his speech he said :

" It was among the anomalies of this country that if some itinerant Mercury in the streets of Marylebone happened to hawk about what was called false news he was run in, and he could be fined a shilling out of his slender pocket; but if some editor of a great newspaper, in his chair, allowed to appear in his newspaper the following morning a terminological inexactitude as to which he had little or no doubt himself—an inexactitude which carried misery and pain and anguish to hundreds and thousands of people—he did not know that there was any means of correcting it. As for magistrates, he could best give an example by a story of a police magistrate which he knew to be true. The magistrate was leaving his Court one day in the dead season of the year, and it was pouring with rain. He was making his way in an omnibus to his club, when, looking out of the window, his eye was attracted by a news sheet, on which he saw his name in enormous capitals, ' Mr. Jones on Peace.' He was a sensitive person, and he allowed himself to think of what had passed in his Court, but he could remember nothing that was not sordid and commonplace. There was what was called a cloud on the horizon, international relations were strained, and everybody was expecting statements from important politicians. He felt, therefore, hot and uncomfortable to see his name connected with peace. When he reached his club he rushed to the file, seized a newspaper, and saw that that morning there had been a quarrel between two sisters over a dead rabbit, and that he had said: ' You had better make it up for the sake of peace.' That was

hard on the magistrate." (Mr. Jones, it might be mentioned, was Mr. Plowden himself.)

"He approached the subject from the point of view of a man who, many many years ago, suffered acutely from the want of advertisement. He had the misfortune to be a barrister, and everybody who knew anything about that profession knew that for some occult reason all barristers were absolutely prohibited from indulging in any form of advertisement. They buried their heads in the sand rather than encourage anybody in the world to know that they existed. He, like many others, ate his heart out in the Temple year after year, strongly against his conscience—obeying this detestable etiquette. The joke of the thing was that when once one of these barristers did get out of chambers into Court all the nonsense about advertisement disappeared. If it happened to be a *cause célèbre* in which the barrister appeared, he had a very good chance of getting known, and getting those briefs which led to the misery of the High Court.

"For many years he was a law reporter to *The Times* newspaper. He was young and feeling his way, and nothing startled him more than when he had to report different judges, and he saw how it pleased them when he prefaced the report with 'Mr. Justice —, in the course of a long and elaborate judgment,' and so and so. He could not think that any of them deceived themselves with thinking that the public read their judgments, or that the people who did read them understood them. What really gratified them was the little introduction with the words 'long and elaborate judgment.' Of course, he was not talking about present judges."

BYGONE LEGAL WITS
JUDICIAL HUMOUR OF THE OLD DAYS
PART I

CHAPTER III

BYGONE LEGAL WITS

JUDICIAL HUMOUR OF THE OLD DAYS

PART I

“ Justice is lame as well as blind among us.”—*Otway*.

OF late years the question has frequently been asked whether the members of the judicial Bench in this country are as clever as their predecessors, and almost everyone qualified to give an opinion has declared that, with a few exceptions, the judges of the past generation were far abler men, at least on the Common Law side, than those of the present day. It is also freely asserted that wearers of the ermine in days gone by were far wittier than those of to-day.

Be that as it may, sufficient examples have been given in another part of this book to show that now and again, at any rate, some sparkling humour is still to be enjoyed in the Courts, although the tendency seems to be to force jokes which bear evidence of the midnight oil, when the pleadings of causes to be tried have been “read up,” and all possible opportunities for fun duly noted. One Court in the Palace of Justice is daily filled by regular habitues who expect to pleasantly while away the time, regaled by remarks from the Bench which cause the newspaper reports to be punctuated with “laughter,” “loud laughter,” “roars of laughter,” a “farthing’s worth of wit being often taken as though it were an ingot.” This apparently was not the way in which the older generation of judges amused the spectators. Desire to

be in the limelight was never a part of their daily task. Jokes with them were usually spontaneous, and consequently all the more appreciated.

In extenuation of present-day judges, however, one might quote the remark of Lord Justice Vaughan Williams, who a short time ago said : " Judicial work is rather dull, and if a judge attempts, however feebly, to brighten his labours with a gleam of humour, he is entitled to sympathy, even if he does not always deserve the laughter that greets his sallies."

On the other hand, there are those who strongly object to a mixture of law and laughter, and not long ago there was a somewhat pathetic plea for a more judicious use of judicial humour published in the *Gentlewoman*.

" There is nothing," said the writer, " of which the British nation is prouder than the purity of its judges. While most of the other countries of the world complain of the corruptness of a section of its Bench, not a breath of slander is ever breathed against the unsullied probity of those who administer the law in England.

" But, while our judges are free from those venal practices which have brought the Bench of other countries into disrepute, some of them are guilty of other faults which sadly retard the course of justice, and detract considerably from the dignity of the law. I refer more particularly to the habit which a few of the judges have contracted of making a joke (sometimes funny, sometimes feeble), on every possible occasion.

" It is as seductive as the drug habit—the more it is indulged in, the greater is the desire for it—and the judge in question is a hopeless Joe Miller.

" The most serious side of the question is the lamentable waste of public time which judicial jokes involve. A joke emanating from the Bench is not like the ordinary quip in company, which can be promptly sat upon.

" A nice sense of deference compels counsel on either side to smile loudly, though frequently against their will ; the officials dutifully hold their sides ; the legal limbs at the back guffaw; while a raucous rippleruns through the gallery.

"All this takes time to subside, and when we take into consideration the fact that expensive counsel are sometimes engaged at fat fees with hundred-guinea refreshers, it is not difficult to calculate that the long-suffering litigants have to pay for the judge's jokes at the rate of so many shillings a minute.

"If judges want to satisfy their craving for humour, they should pay for it themselves. A solution of the difficulty would be to compel them to write a comedy, consisting of a type of joke they indulge in, and mounting it at their own expense. The loss on production would speedily cure them of the habit."

There are occasions, however, when a joke forces itself, so to speak, on a judge; when he would indeed be accused of lacking in humourous perception if he did not take advantage of the opportunity for a little mirth.

To give an instance.

Lord Halsbury, who occupied the Woolsack for more years than any other Chancellor, save Lord Eldon, once caused the famous Baron Bramwell to excel himself at the Glamorgan Assizes, where as Mr. Hardinge Giffard the Ex-Chancellor was leader of the South Wales Bar.

On one occasion he was counsel for a local authority, and was fighting for their cause with great vehemence. Baron Bramwell, the presiding judge, had noticed this, and at last he inquired the reason for such enthusiasm on the part of the distinguished counsel. "You are not a Welshman, you know," observed the Baron. "True," replied Giffard, "but I have had a good deal out of them in my time." "Ah," retorted the judge, "then we may take it that you are a Welshman by extraction."

Bramwell, however, was a naturally witty man. It was he who invented the well-known classification of perverters of the truth—"liars, d——d liars, and expert witnesses." At a later date he added a fourth class—"my brother Frederick," meaning, of course, Sir Frederick Bramwell, perhaps the best-known expert engineer witness of his day, who survived the judge many years,

A further illustration of the Baron's dry humour is afforded by the story of a professional check which Mr. Plowden received in his early days at the hands of Bramwell.

Mr. Plowden had been briefed to defend a man at the Stafford Assizes. As chance would have it, the prisoner was arraigned during the luncheon hour, when Mr. Plowden had left the Court, and he was disgusted to find on return that he had actually pleaded "guilty." Mr. Plowden at once sought the judge and asked him privately to let the plea be withdrawn, explaining to him the position, and assuring him that had he been in Court he would have advised the prisoner differently. The learned Baron demurred at first, but seeing his earnestness he gave way, and the prisoner was permitted to withdraw his plea. The trial came on, and after Mr. Plowden had addressed the jury with much fervour, the learned Baron proceeded to sum up as follows :

"Gentlemen of the Jury, the prisoner at the Bar is indicted for stealing a horse. To this charge he has pleaded guilty, but the learned counsel is convinced this was a mistake. The question, therefore, is one for you, gentlemen, which you will believe. If you should have any doubt, pray bear this in mind, that the prisoner was there and the learned counsel wasn't."

Lord Bramwell's most entertaining judgment is perhaps not very well known. It was a dreary equity case in the Court of Appeal, and his lordship delivered himself thus : "I have listened attentively for two days to the learned and lucid arguments of the very eminent counsel, without, unfortunately, being able to understand one of them ; and I have listened to the profound and luminous judgments of my learned brethren with still greater attention, but I regret to say, with no better result. I am, therefore, of the same opinion as they are, and for the same reasons."

It was also Lord Bramwell who, when a counsel urged that his client was not responsible for his crime, as she

was suffering from "kleptomania," answered, "That is exactly the disease I am here to cure."

This story is also told of Baron Bramwell. He was trying a prisoner on the South Wales Circuit, and counsel for the defence asked leave to address the jury in Welsh. The case was a simple one, and permission was given without demur. He said but very few words. The Baron also did not think much comment was necessary, but was somewhat startled by a prompt verdict of acquittal.

"What was it," he afterwards inquired, "the learned counsel said to the jury?"

"Oh," was the reply, "he just said, 'This case, gentlemen, lies in a nutshell. You see yourselves exactly how it stands. The judge is an Englishman, the prosecuting counsel is an Englishman, the complainant is an Englishman. But you are Welsh, and I am Welsh, and the prisoner is Welsh. Need I say more? I leave it all to you.'"

Baron Bramwell did not allow the experiment to be repeated of addresses to the jury in a language he was not conversant with.

It was a characteristic of the first Lord Esher, Master of the Rolls, that he objected to anyone pretending that he was unacquainted with matters of everyday talk and knowledge. A most amusing incident, illustrating this frame of mind, arose in the course of a motion for a new trial in a breach of promise suit which attracted great attention about twenty years ago. The late Mr. George Candy, Q.C., argued at length the case for the lady. At last Lord Esher asked him to point to any corroboration of the alleged promise. The following colloquy ensued:

Mr. Candy: "It is on the Judge's notes that the defendant took my client to see a house."

Lord Esher: "That is no corroboration. Do you not know that gentlemen take houses for their mistresses?"

Mr. Candy: "I am not aware of it."

Lord Esher: "I can hardly believe that, but you may take it from me that they do."

Mr. Candy : " I bow to your lordship's superior knowledge."

Later on in the case, Lord Esher asked why the letters which had passed between the parties were in French.

Mr. Candy replied : " That is a language which lends itself more readily to this class of correspondence."

This was the opportunity for the Master of the Rolls. " Ah, ah, Mr. Candy, you know that, do you ? " said his lordship. " I thought you were not so innocent as you pretended to be just now."

Mr. Candy : " There are Courts in this building where neither Judge nor Counsel is supposed to know anything outside the case being argued."

Lord Esher : " Remember in future that that is not my Court."

There was one member of the Bench whose ignorance of all ordinary everyday sayings and doings was loyally accepted. That was Sir William Grove. He was a great Socialist and a distinguished patent lawyer. One day he jocularly remarked that he had been made a judge because he was supposed to know something of patent law, but that he had never tried such a case, his chief business being to preside at trials of libel and slander actions.

Mr. Justice Grove, in the early seventies, tried the Election petition presented against the return of the then Sir Henry James, afterwards Lord James of Hereford, for Taunton, on seeking re-election and appointment as Solicitor-General in Mr. Gladstone's first administration. Mr. Charles Russell, Q.C., afterwards Lord Russell of Killowen, Lord Chief Justice of England, was counsel for the petitioner, and he examined a witness to prove bribery by an agent. The man averred that he had been promised a " quid " to vote for James. " A ' quid,' a ' quid,' " remarked Sir William Grove, " what is that ? I have heard the term as applied to tobacco, but in no other sense."

Which recalls a story of the late Mr. Justice Lawrence. On one occasion he astounded the Court by innocently

asking, in a case in which a barmaid, suing for breach of promise, said her acquaintanceship with the defendant began by his coming in and asking for "a Scotch," "What's a Scotch?" while trying to look as grave as another judge who once asked, "Who is Dan Leno?" and Mr. Justice Day, who caused hardly less astonishment by the bland interrogation, "Who is Sherlock Holmes?"

The feigned, or real ignorance of judges, however, has given rise to many amusing stories. The late Lord St. Helier, a man usually well-acquainted with social life in all its grades, once had before him a witness who referred to the liquor commonly known as "small beer." "And may I ask what small beer is?" queried his Lordship. "Oh," replied the witness, "you can get a pint of it for a penny." "Indeed," said the President, lifting his eyebrows in astonishment, "I thought you had to give threepence a glass for beer."

Mr. Justice Darling, besides being a man of the world, is a literary man, therefore, presumably, a close observer of every conspicuous incident in the literary world. Yet at the time when everybody was talking or reading of that sensational novel, "The Mystery of a Hansom Cab," he solemnly told a Court that he had never heard of it, much less read it. That was probably true, but it was also amazing.

Again, Sir Alfred Wills, hearing a witness in a case concerning horse-racing use the words "a cert," blandly asked, "What is a cert?" "A cert, my lord," explained counsel, glad to enlighten a Judge, "is what you think you have when you back horses." Still more recently another learned Judge unblushingly confessed in open Court his ignorance of what a bicycle suit is, and what a skiff is, although his aquatic tastes are fully proclaimed by the presence on the mantel of his chambers of two fine model yachts.

A remarkable man in many respects was Judge Lawrence, who died in December, 1912. He was made a judge of the King's Bench Division on the retirement of the late Lord Field, and resigned a few months before

his death, after twenty-two years on the Bench. As a judge he displayed the virtues of painstaking prudence and caution, preferring always in matters with which he was unfamiliar, to rely on the judgment of others when that was available. A striking example of the late judge's wisdom in this respect is found in the historic case of British South Africa Company v. Companhia de Mocambique, which was argued at immense length with reference to authorities from the beginning of our legal history in the House of Lords. The Divisional Court consisted of Lawrance and his junior, the lamented R. S. Wright. Their decision—reversed in the Court of Appeal but restored in the House of Lords—was to the effect that our courts have no jurisdiction to entertain an action for a trespass on land situate abroad. Lawrance preferred to leave everything to the jury, and to trammel them as little as possible. The result was that applications for a new trial were not often successful—and when a fresh trial was ordered it was more usually for non-direction than for mis-direction. His *obiter dicta* were often gems of sound sense.

Apart from his purely judicial and legal capacities, the late judge was famous in the courts for his dry humour, which had its roots in practical common sense. He was much disposed to exercise his gift at the expense of counsel when the latter gave him a fair opening. Some years ago a schoolboy was suing the London County Council for damages for a broken leg resulting from a tramway accident. The boy's counsel invited his lordship to read a certificate of good character given to the lad by his schoolmaster. But Mr. Justice Lawrance, ever impatient of irrelevance, waived the document away. "It didn't break the boy's leg," he murmured, in one of his characteristic "asides."

Once a very junior barrister rushed into Court just as Sir John was rising, and asked that a case in which he was concerned might stand out of the list for a day or two. "Certainly, I shall be glad to oblige you," said Judge Lawrance. "Then, if that is done, I shall be quite

satisfied," said the barrister, rather bumptiously, as he gathered his papers together. The Judge glanced at him and suppressed a smile. "That, of course," he said, in his quiet way, "doubles my pleasure."

There were titters in Court, and the patronising young man left blushing like a maid of seventeen.

As a judge Sir John was much given to silence until it came to his turn to sum up. But he liked a joke as well as anybody, and had gifts of satire which he used occasionally. These were shown once in a case where the present Lord Chief Justice made a rather "flowery" speech in defence of a very bad character.

"Your able and learned counsel," said his lordship, addressing the prisoner, "has described you as an upright man. He may be right. I see that in 1890 you were convicted of coining; that of itself may be an act of rectitude. I express no opinion. In 1893 you were sent to prison for three months for keeping a gambling house—that again may be an attribute of rectitude. Since then you have been convicted of forgery, which, also, perhaps, is consistent with rectitude—and, again, I express no opinion. But, on the whole, I think you had better go to prison for six months with hard labour."

Concerning his suavity many stories are related of Judge Lawrance. He was once passing sentence on a man, and in the course of his preliminary remarks he referred to him as a "professional burglar." The prisoner raised loud protests from the dock. "Here," he exclaimed, "I dunno wot you mean by calling me a professional burglar. I've only done it once before, and I've been nabbed both times."

Mr. Justice Lawrance beamed upon him.

"Oh, I did not mean to say," he remarked, in his most suave manner, "that you had been very successful in your profession."

Mr. Justice Lawrance had very little patience with fads or humbug. Not long ago a woman was plaintiff in a case, and she was supposed to have invented some wonderful herb-medicine which would cure a number of

things. "Whom do you know who has taken this cure?" the judge demanded of one witness. "My husband, my lord. He took it for a month, and then there was another judge——" "Where is your husband now," interrupted Judge Lawrance. "He is dead now," answered the witness. Up went the judicial eyebrows. "Just what I expected," he said.

Judge Lawrance was on excellent terms with counsel, but he liked to poke fun at them sometimes. On one occasion a famous K.C. had protested against his remarks. In summing up, his lordship said: "You observed the little difference between Mr. S—— and myself. Do not take any notice of it. It is part of the game. It sometimes helps counsel to get up a little scene with the judge, for the sympathy of the jury is seldom with the man who sits where I sit."

Sir John was troubled with deafness in the later years of his judicial career, and he occasionally turned his infirmity into the service of humour. At least he always contrived not to hear unnecessary or inconvenient observations made in Court. A peculiarly unfortunate joke was made by a barrister about the habits of his leaders, and an eminent King's Counsel thought it necessary to address a protest to the judge. But the latter said he had not heard the tactless joke, and so the matter ended. But when with rather a patronising air another counsel told a witness not to "go so fast, but keep your eye on his lordship's pen," Mr. Justice Lawrance at once looked up from his note-taking, and said to the witness, "Never mind my pen. Just go on with your evidence."

The judge, however, was a man of kindly human sympathies. He once tried a stoker who was charged with attempted murder, having, in fact, stabbed a fellow-workman whom he found in his wife's bedroom. The provocation was certainly extreme, and the judge recognised it by sentencing the prisoner to fourteen days' imprisonment, and by remarking: "Your act was a natural one. I feel very sorry for you."

Equally dry and sarcastic was Mr. Justice Cave, at

times. In a certain breach of promise case which came before him, the defence was that plaintiff and defendant had agreed to live together, but there was a letter of defendant's in existence the contents of which left it open to the jury to infer that there was a corroboration of the alleged promise, if they were inclined to take the view. The defendant was a rich man, a prominent member of a first-class London Club. When he went into the witness-box, instead of adhering to the line of defence in the pleadings, he posed as a martyr who had been seduced by the female. After he had been detailing his woes for some time, Sir Lewis Cave observed :

“ Come, come, there is another Joseph putting it off on Potiphar’s wife. I must take a note of this.” The only person who did not join in the merriment was the defendant, who it may be added was cast in damages amounting to some hundreds of pounds.

The late Mr. Justice Day once made a remark which sadly ruffled a West End doctor. The latter had sued a gentleman for a large bill for attendance on his wife. The action was not defended, but it was necessary for the plaintiff to prove the correctness of his charges. This he immediately did. He was about to leave the witness box, when the judge said : “ How many times did you see this lady, sir ? ” “ Two hundred and seventy times, my lord,” replied the doctor. “ Is she alive ? ” further asked the judge. “ Oh, yes, my lord,” was the rejoinder. “ Dear me, you surprise me,” remarked the judge. The doctor’s countenance was a study.

Like Judge Lawrence, Sir John Day, during the last year or two that he was on the Bench, became somewhat deaf. One morning when he entered his Court he intimated that his infirmity was more troublesome than usual, and that members of the Bar who desired him to hear their observations would have to “ speak up.” A budding junior was in the first case. “ My lord,” he began in the ordinary tone. “ No good,” said the judge, “ I can’t hear you.” “ My lord,” said the counsel in a louder voice. Still he was told that his remarks did not reach

the judicial ear. A third attempt was a shout. "Excellent," observed his lordship; "Keep it up at that." But this was easier suggested than executed. "My case is," said the stuff gownsman, but the judge did not comprehend. "You are caged in," he said, as indicating what impression the words had made on his mind. "I do not see any obstruction in the body of the Court." Everybody seemed satisfied with this sally, and from that moment the barrister was able to convey his views with comparative ease.

Judge Day's pet aversion was a counsel with a moustache, and he had a standard method of poking fun at him. When such a barrister was speaking, it was always odds that the judge would say, "I can't hear you." Counsel would then speak up more loudly; but again his lordship would complain that he could not hear. The pleader would raise his voice to top pitch, and then at last Mr. Justice Day would break forth into a broad smile and dryly remark: "Well, of course, Mr. Gown, if you will insist on covering your lip with a canopy of hairs you can't expect anybody to hear you!" The judge had played up for his point, and having obtained it, was satisfied. Counsel would afterwards proceed without interruption.

Commissioner Kerr had the same objection. "How can I hear you, sir, if you cover up your muzzle like a terrier dog?" he once asked an advocate with a beard and moustache.

"Well, I'd rather be an English terrier than a Scotch *cur*," was the reply. The Commissioner, who could appreciate a smart reply even at his own expense, chuckled and merely remarked: "Get on."

Judge Day also had the strongest possible dislike to the too wordy counsel, and always tried to make the Court laugh at him. On one occasion a young barrister was discoursing very learnedly and still more lengthily, on a trivial matter. "Then, my lord," he observed, "comes the question of the bags; but, m'lord, they might have been full bags, or half full bags, or again, m'lord, they

might have been empty bags." Mr. Justice Day seized his chance. "Certainly," he interrupted; "or again, sir, they might have been windbags." The judge smiled, the Court tittered, and counsel almost collapsed.

Mr. Justice Day and the late Judge Willis were great friends, and the latter has related how occasionally he received from Day, when sitting on the bench, a little note containing some witty observation. "I remember one," he once said, "which may be worth preserving. Like myself, he believed in burying, not burning a body, and the reduction of the body to dust by the action of time and nature, to be in harmony with the best and truest feelings of man. He intended to be present at the burial of Baron Huddlestane, but on finding that he was to be what is called cremated, Day decided not to attend. He communicated to me that decision in the following words :

" M.D.W.

" I had intended to go with my brother Huddlestane to the grave, but since he has decided to go off in flame, I cannot accompany him."

Huddlestane himself, by the way, was a man of cleverness and wit, which, however, was somewhat discounted by his extreme vanity. He was never so happy as when he could scrape an acquaintance with titled people. The following story illustrates the lengths to which he would go to bask in the company of persons of high degree.

He was once staying at Hamburg, and noticed among the arrivals at his hotel the name of a well-known duke. The opportunity was too good to be lost. Hurrying into the hotel, he sought out the head waiter, and gave him a sovereign to place him next to the Duke at the table d'ho^ete. His mortification may be imagined when, on dinner being served, he found, so far from being next to the Duke, that he was placed at one end of the room and the Duke at the other. Angrily complaining to the waiter afterwards, he reminded him of his tip. "True," said the waiter, "you did give me a sovereign, and I did not forget; but when His Grace the Duke gave me two

sovereigns that he might not be near you, what was I to do?"

On another occasion Huddlestone arrived in Baden-Baden and duly inscribed his name and his "Q.C." and "M.P." in the hotel book of visitors. But to his inscription someone added the words, "Tuft-hunter and Toady," in handwriting so similar that the whole read as one continuous and genuine announcement. In this light the authorities seem to have viewed it. They copied the words *literatim*, honestly believing them to convey some social distinction, and next morning, greatly to the amusement of the social coterie, "Huddy's" name appeared in the official list of visitors with the queer additions of "Tuft-hunter and Toady" tacked on to his titles.

A story is told, too, of Huddlestone, that when travelling as the guest of some titled friends his obsequious demeanour toward them resulted in his host being charged half the ordinary rate for his expenses, under the supposition that he was a courier.

Although there are cynics who sneer at our judges and lawyers as men of warped and bigoted mind, much wise counsel and pleasant advice to litigants emanates at times from the Bench. Perhaps no judge distinguished himself so much in the way of giving advice as Judge Willis, one of the most original of judges, who was admitted to have a finer knowledge of common law than anyone in the land. Judge Willis once confessed that he never used the telephone, never travelled on a tube railway, expressed surprise when told that the London General Omnibus Company ran motor omnibuses, never gambled even to the extent of a penny, and never attended a place of amusement.

His pet aversion was slang. "I have no taste for slang, rude or vulgar expressions," he once said, and he did not hesitate to express his disapproval of them when sitting on the Bench.

A defendant was absent from Court one day, and it was stated that he had not arrived because he was frightened of "getting the sack." "Tut-tut," replied

the judge ; " don't use the word ' sack.' I have never seen any person put in the sack, and your expression has no meaning."

A witness said he had " got on the telephone." " No, no, sir," said the judge, " you were never on the telephone ; you were on your feet, I hope. You communicated by means of the telephone, you mean. I suppose it is a reality, but I have never seen one."

" Don't talk to me about people being in the same boat," he remarked to a solicitor on another occasion, " when they are not in a boat at all."

And when a witness at Southwark County Court referred to " his mater," his Honour interrupted sharply, " What did you say, sir ? " " Well, then, mother." " Did you say ' mater ' ? " " Yes, sir." " Give up the Latin, and call her mother. There is no sweeter word in our language—so consecrated by time. Call your father your father, too, and not the guy'nor."

And talking of mothers, Judge Willis once made a remark with which, we fear, few mothers will agree. " One of the happiest times of a woman's life," he said, " is while she is looking after children who are down with the measles." Apparently, however, Judge Willis was fond of children in all circumstances, for he caused something like a sensation in his Court on one occasion by refusing to allow a noisy baby to be taken outside. " Let it remain," he said, " babies do not disturb me."

Of marriage he once said : " I married at the age of thirty-one, and I think it one of the most deplorable facts of life to-day that young men are not able to marry nearer twenty than thirty. I thoroughly endorse the saying, ' Happy is the nation whose people marry young.' "

And he out Micawbered Micawber with this declaration : " Don't be afraid of your debts ; write them down, carry them with you, look to them occasionally, and smile on them."

One of the few cases on record of a coincidence as to names leading to a very witty retort, is the celebrated

encounter that took place, some years ago, between Mr. Willis, K.C., as he then was, and Mr. Dickens, K.C. "Little" Mr. Willis, as he used to be called in the Courts, had been conducting his case in his usual strenuous manner, and had in the course of an impassioned speech referred personally to the opposing counsel, remarking that rarely, if ever, were the sons of great men blessed with the same superabundance of intellect that distinguished their fathers.

When Mr. Dickens rose to reply, he was exceedingly modest in referring to "his distinguished father, whom, but for the remarks of his learned friend, he should never have thought of introducing into the case. He felt bound to admit, however, that his friend, even before he had made that reference, had strangely reminded him of a well-known character in one of his father's novels, who signified his desire to enter the matrimonial state by repeating the words 'Barkis is willin'.'

"He (the learned counsel), as he listened to parts of his learned friend's speech, could not help inverting the phrase, and saying to himself, 'Willis is Barking.' "

One of the most courteous and popular men at the Bar was the late Mr. Justice Walton. He was averse to saying anything which would cause fun at the expense of an opponent. But on one occasion even he could not resist the opportunity of bringing some gaiety into a commercial cause. The dispute had arisen over a charter party relating to a cargo of donkeys for the Transvaal. The learned counsel mentioned that fact, and added, "And my learned friend, Mr. Bray (the present Mr. Justice Bray) appears for the defendants." This was enough for Mr. Justice Bigham (now Lord Mersey), who was trying the case. "Which of them, Mr. Walton?" asked his lordship, "which of the donkeys does Mr. Bray represent?"

At the Old Bailey once, two judges went to dispose of a heavy Calendar. One was Mr. Justice Byles, and the other Baron Channell. As was usual on such occasions, the Lord Mayor's butler inquired what "My Lords and

Queen's Justices" would have for lunch. Baron Channell replied that he hardly knew—he was very poorly, but after a time he was reported to have said : " Some turtle soup, a spring chicken, a milk pudding, and a bottle of Madeira." " Butler," said Mr. Justice Byles, " I am very well this morning. I will have a captain's biscuit and some camomile tea."

Mr. Justice Byles was, when at the Bar, noted for his astuteness in advocacy. On one occasion he was for the defendant in an action for breach of promise of marriage. The plaintiff proved the promise to marry, and that the defendant had married someone else. The question seemed a question of damages, but Byles put two questions to the plaintiff :

" Did not he propose to marry you when his father was dead ? "

" Yes."

" Is his father dead ? "

" No."

" That is my case, my lord," said Byles.

" But, brother Byles," said the judge, " he has married somebody else ! "

" Well, my lord," said Byles, " his wife may die before his father, or afterwards, and he may outlive them both, when it will be time to fulfil the promise."

The defendant won his case.

An amusing story is told of Lord Chief Baron Pollock. One day, at the Old Bailey, the Recorder of London, in presenting the Lord Mayor to him, which he did in bombastic and inflated language, described his early education and struggles, his poverty, industry, perseverance and ultimate wealth. He said :

" My lord, he became an orphan when a young boy, and suffered indeed great poverty ; but by his energy and perseverance he has now become one of our city nobles."

Pollock listened apparently with the greatest interest to the story of so much greatness, and presently asked :

" What is the difference between his former circumstances and the present ? "

The city noble looked, but could not answer ; even the learned Recorder was puzzled to give a definition of the different condition of things. Then the Lord Chief Baron, with the smile that characterised him, said :

" I will tell you the difference, it is merely a matter of degree. In youth he was a poor orphan, and now he is better-off 'un."

" The last of the Barons," as Baron Pollock was called, for he was the final survivor of the Judges of the Old Court of Exchequer, once told a good story of what he was taught to regard as breach of contract when he was studying for the Bar. The Baron was trying a case in which a firm complained that a certain class of wood they had ordered had not been consigned to them. The reply was that the timber stipulated for could not be procured and that the nearest article had been forwarded. The difference was very slight. The Judge commenting on this, gave this definition of what he was told might be regarded as breach of contract. " If a man ordered his portrait to be painted and his coffin was forwarded to him instead, that would give him an excellent chance of action."

The scholarly Lord Bowen was pre-eminent as a humourist and a phrase maker. Once counsel was arguing that an eminent civil engineer of extensive works ought not to decide a dispute between a dock employé and a contractor because he was prejudiced. " How was that," the Court inquired. " Well, he had written to the contractor a friendly letter urging him to hurry on the work or he would be out of time." Notwithstanding that the letter was a friendly one, it was considered by counsel that the engineer was biased and, therefore, ought not to be allowed to arbitrate between the parties as the terms of the contract provided. " Then we may take it from you," said Lord Bowen, " that in your view an arbitrator must be a man of the icy impartiality of a Rhadamanthus."

Very amusing was the poetical request for a lift to the Lord Chancellor's breakfast in 1883, which Lord Bowen addressed to his old friend, Mr. Justice Mathew :

" Mr. dear J. C.—Will you be free, to carry me, beside of thee, in your buggee, to Selborne's tea, if breakfast he, intends for we, on 2nd November next D.V., eighteen hundred and eighty-three A.D., for Lady B., from Cornwall G., will absent be, and says that she, would rather see, her husband be, D. dash D., than send to London her buggee, for such a melancholy spree, as Selborne's toast and Selborne's tea."

Judge Parry, by the way, tells of an encounter he had while acting as judge's marshal on the Oxford Circuit to Judge Mathew, who was a great judge and a good Roman Catholic. His brother marshal was Mr. Lister Drummond, the Metropolitan magistrate, like Mathew, an ardent Catholic. One morning both marshals arrived late at breakfast, and found Mathew reading his paper and eating his bacon. Looking at them in a very surly manner, he said :

" Whose bedroom is next to mine ? "

" I believe mine is, Judge," Parry said with hesitancy.

" H'm ! Then who on earth was talking to you until two in the morning ? "

" Well, you see, it was Drummond, but I am sure you will approve of it when I tell you that he wants to convert me to the Holy Faith ! "

" Does he ? " roared Mathew, banging his fist on the table and glaring at Drummond. " Then you may take it straight from me, Drummond, that if you continue to convert Parry in the small hours of the morning, I leave the Church."

When Mr. Justice Stephen retired from the Bench, all his brethren attended at the Law Courts, and Lord Alverstone in an eloquent address bade farewell to that great judge. Much feeling was created by the speech, and Lord Bowen, turning to the late Lord Coleridge, who was then Lord Chief Justice, whispered, " May there be no moaning at the Bar when I put out to sea."

Which recalls the well-known story of a little incident which occurred on the occasion of an Address to the Throne by the Bench at a period when Bowen was contemporary

with Lord Herschell, the famous Chancellor ; Coleridge, one of the greatest of "Lord Chiefs" ; Hawkins, the dreaded "hanging judge," and Wills, "the most polished corner of the Temple." The Lord Chancellor opened an eloquent speech with these words : "Conscious as we are of our imperfections——" "Of one another's imperfections," corrected Bowen, in an audible undertone.

Among other examples of Lord Bowen's wit might be mentioned his answer to the conundrum : "Why is a certain famous cricketer rightly called a good bat?" "Because a bat is a little creature which goes in early in the morning and does not come out till very late in the evening."

When Bowen became a member of the House of Lords a friend said that he need do nothing but assent to the judgments of his colleagues. "In that case," said the Judge, "I had better take the title of Concurry."

One of the judges complained to Bowen that a colleague had slept peacefully through the afternoon, wakened up at half-past three and at once adjourned the court. "It is as it should be," said Bowen ; "he obeyed the hymn, 'Shake off dull sloth, and early rise.'"

Perhaps a still more famous example of Lord Bowen's wit, was the remark he addressed to a barrister who was arguing a bad point in the Court of Appeal on the ground of an "equity" in the case. "When I hear of an 'equity' in a case like this," Bowen said with judicial gravity, "I am reminded of a blind man—in a dark room—looking for a black hat—which isn't there!"

Bowen's after dinner stories were a positive delight, but the following is generally regarded as his best "hit." "One of the ancient Rabbinical writers—I have forgotten his name, but I have no doubt that it can be easily ascertained—was engaged in compiling a history of the minor prophets ; and in due course it became his duty to record the history of the prophet Daniel. In speaking of the most striking incident in that great man's career—I refer to his critical position in the den of lions—he made a remark which has always appeared to me replete with

judgment and observation. He said that the prophet, notwithstanding the trying circumstances in which he was placed, had one consolation which has sometimes been forgotten. He had the consolation of knowing, that when the dreadful banquet was over, at any rate it was not he that would be called upon to return thanks ! ”

Sir Frank Lockwood began his legal career with a joke. His first brief was on a petition to the Master of the Rolls for payment out of Court of a sum of money ; and Lockwood appeared for an official liquidator of a company whose consent had to be obtained before the Court would part with the fund. Lockwood was instructed to consent, and his reward was to be three guineas on the brief, and one guinea for consultation. The petition came on in due course before Lord Romilly, and was made plain to him by counsel for the petitioner, and still a little plainer by counsel for the principal respondent.

Then up rose Lockwood, an imposing figure, and indicated his appearance in the case.

“ What brings you here ? ” said Lord Romilly, meaning, I presume, “ Why need I listen to you ? ”

Lockwood looking puzzled, Lord Romilly added a little testily, “ What do you come here for ? ”

The answer was immediate, unexpected, and accompanied as it was by a dramatic glance at the outside of his brief, as if to refresh his memory, triumphant, “ Three and one, my lord ! ”

Another of his jokes related to his defence of the notorious Charles Peace. Not long after the trial, at a cricket tea party in Caius, Lockwood was congratulated on his defence of “ Peace with Honour.” He accepted the compliment, but added that it was not “ Peace at any price,” for his pleading had been unfee’d.

His ready and characteristic humour often led Sir Frank to play little jokes upon his friends. One day he received an invitation to stay at a friend’s house in a very remote district, and he decided that if he was going to take a holiday it might as well be for a week. So he telegraphed :

“ May I stay six days ? ”

The message was duly delivered to his friend, who had to pay six shillings to the messenger. His reply was :

“ Yes, of course, but don’t telegraph.”

Evening came and with it another mounted messenger who demanded a further six shillings for his services. The telegram was short and sweet :

“ Why not ? Lockwood.”

His love of a joke was also illustrated on one occasion in Scotland at an important civic function, to which he and his wife were bidden. He observed that the laird of a place was announced at the reception by his territorial title, whereas his wife, who accompanied him, was simply styled “ Mrs.” Accordingly, after the ushering in of a pair, who may be referred to as “ The Mucluchtie and Mrs. Gordon,” Lockwood directed the grave Scottish door-keeper to announce, “ No. 26, Lennox Gardens, S.W., and Mrs. Lockwood.”

Lockwood’s speeches were often as humourous as his spontaneous remarks, and the manner in which in 1891, at a dinner of the Royal General Theatrical Fund, he related his experiences as an actor, is irresistible. During the course of his remarks he said, to quote from his biography by Mr. Birrell : “ We know that in this profession there has been many a failure. I know of one. Let me tell you of it. I know it was true, because I was the failure myself. I made my first appearance on any stage at the old theatre at Bath. I suppose it was the old theatre. It was a very dingy and somewhat dirty theatre. Therefore, I suppose it was the old theatre. But I have noticed that whenever the record of a great theatrical career comes to be written, it always begins at the old theatre. And I have no doubt that many a theatrical reputation has been begun at the old theatre at Bath. It has been the cradle of many a theatrical reputation ; but, gentlemen, it was the coffin of mine. I was cast for the part of a servant—one of those faithful creatures to whom wages are not so much an object as a thoroughly comfortable home, and through five acts

of an old English comedy I traced the mysteries of a child until that mysterious child must have been completely sick of me. It was an Irish part, and for its delineation I had studied and, as I thought, I had acquired the rich racy brogue of the Emerald Isle.

“ I was not sure how I was getting on. I was conscious that when I came on to the stage there was a certain amount of indifference as to what I said, and as to what I did, and I was more conscious that there was a sense of relief when I left the stage. But still I did not know how things were going on until, as I left the stage, I met at the wing the stage-manager, who was an outspoken man. Many of you may know him. He addressed to me these very remarkable words. Said he, looking at me, ‘ Scotch or Irish ? ’ For the moment I mistook his meaning. I thought he was hospitably inclined, and was offering me an alternative choice in the matter of whisky. But he went on : ‘ No,’ he said, ‘ I have been wondering what dialect you have been playing that part in. Some say it is Scotch, and some say it is Irish ; but the gas man, who tells me that he has often played the part, says it is ‘ Zomerset.’

“ I assured him that it was an Irish part—real old Irish. He made some frivolous observation as to its being a blend, but I said ‘ This is no time for badinage,’ and I returned to track the wretched person on the stage. And I remember at the end of the performance some of the company went to the front of the curtain, and I appeared before the curtain also, but somebody laughed. It was a comic piece, but no one had laughed at me up till then. I still did not know whether I was successful or not. The next day I went to a kind friend with whom I was staying, determined to settle the matter, and I said to him—‘ You heard me play ; you were there ; tell me, was I a success ? ’ I waited for his words. He said, ‘ I did not hear a word you said.’ That settled it. It was no use attempting to take the Crystal Palace to play ‘ Hamlet ’ on a Saturday afternoon after that.”

To Mr. Birrell also we are indebted for the following

letter, written by Lockwood to his younger sister, and which illustrates his efforts to amuse at all times.

“ MY DEAR AGNES,—I do not know whether you have ever heard of a strike. They are very fashionable just now—policemen strike, curates strike, organ-grinders strike. In fact, all people that on earth do dwell strike, excepting, of course, lawyers, who know better, and act accordingly. But of all the strikes, the one which strikes my mind as being the most disgraceful is the one which I have endeavoured to depict on the other side of this page. Fancy a girls’ school has struck. They put the globes into the grand piano, and hung the harp on a willow tree in the back garden. As I passed by the house, and saw what I have drawn, I thought of you, and at once sat down in the middle of the road to write this letter. As I see the water-cart coming round the corner, I think I had better get up. So with best love,

“ Believe me, your affectionate brother,

“ FRANK.”

The wittiest of lawyers, however, get paid back sooner or later. Sir Frank Lockwood was once examining a farmer in a case which turned on the identity of certain cattle.

“ Are you certain these were the prosecutor’s beasts ? ” was the question.

“ I am,” said the farmer.

“ But you were some distance away from them at the time. At what distance can you be certain it is a beast you are looking at ? ”

“ Oh, about as far as you are from me.”

Here is another example of Lockwood’s wit. He was once cross-examining rather severely a number of witnesses, the opposing counsel being Mr. Jelf, Q.C. Lockwood made such pointed remarks about the veracity of the witness that at last Mr. Jelf interposed with the ejaculation :

“ Pray, pray, Mr. Lockwood ! ”

"So I do," said Lockwood, "so I do, Mr. Jelf, at fitting and proper times."

On one occasion, when he was detained late in Court, Lady Lockwood forwarded a note reminding him that he had promised to take her to the theatre. Instantly he scribbled the reply :

"The fee simple, and the simple fee,
And all the fees entail,
Are nothing when compared with thee,
Thou best of fees, female!"

Another well-known story regarding Lockwood refers to an incident which occurred during the hearing of the Parnell Commission, presided over by Sir James, afterwards Lord Hannen, Mr. Justice A. L. Smith, afterwards Master of the Rolls, and Mr. Justice Day. During the trial the latter never made a remark, although Sir James Hannen kept conversing with his colleague, Sir A. L. Smith. Lockwood, noticing the circumstance, was quick to exclaim, *sotto voce*, "K(night) telleth K(night) and Day communeth with Day."

From the prisoner's point of view there may not be much humour in the story. But, as an example of the celerity with which judges of the old days disposed of cases, this story, told by the late Baron Brampton in his reminiscences, will probably make the reader smile.

The incident occurred at the Old Bailey, when the famous judge was gathering experience in his very early days.

We quote his own words :

Jones was the name of the prisoner. His offence was that of picking pockets, entailing, of course, a punishment corresponding in severity with the barbarity of the times. It was not a plea of "Guilty," when perhaps a little more enquiry might have been necessary ; it was a case in which the prisoner solemnly declared he was "Not Guilty," and therefore had a right to be tried.

The accused having "held up his hand," and the jury having solemnly sworn to hearken to the evidence, and "to well and truly try, and true deliverance make," etc.,

the witness for the prosecution climbs into the box, which was like a pulpit, and before he has time to look round and see where the voice comes from, he is examined as follows, by the prosecuting counsel :

“ I think you were walking up Ludgate Hill on Thursday, 25th, about half-past two in the afternoon, and suddenly felt a tug in your pocket, and missed your handkerchief, which the constable now produces. Is that it ? ”

“ Yes, sir.”

“ I suppose you have nothing to ask him ? ” says the judge. “ Next witness.”

Constable got up.

“ Were you following the prosecutor on the occasion when he was robbed on Ludgate Hill ? And did you see the prisoner put his hand into the prosecutor’s pocket, and take this handkerchief out of it ? ”

“ Yes, sir.”

Judge to prisoner : “ Nothing to say, I suppose ? ” Then to the jury : “ Gentlemen, I suppose you have no doubt ? I have none.”

Jury : “ Guilty, my lord,” as though to oblige his lordship.

Judge to prisoner : “ Jones, we have met before—we shall not meet again for some time—seven years’ transportation. Next case.”

Time : two minutes fifty-three seconds.

For grim humour, however, the following story would be hard to beat. In his early days Baron Brampton had to defend a man for murder, and after a powerful and touching address to the jury, during which he made pathetic references to the prisoner’s two children, who, dressed in little black frocks, were sobbing bitterly in Court, managed to get a verdict in the prisoner’s favour on the grounds of insanity.

On the same evening he was dining at the country house of a Mr. Hardcastle, and near him sat an old inhabitant of the village where the tragedy had been committed.

“ You made a touching speech, Mr. Hawkins,” said the old inhabitant.

"Well, it was the best thing I could do in the circumstances."

"Yes," he said; "but I don't think you would have painted the little home in such glowing colours if you had seen what I saw last week when I was driving past the cottage. No, no; I think you'd have toned down a bit."

"What was it?"

"Why," said the old inhabitant, "the little children who sobbed so violently in Court this morning, and to whom you made such pathetic reference, were playing on an ash-heap near their cottage; and they had a poor cat with a string round its neck, swinging backwards and forwards, and as they did so they sang:

"This is the way poor daddy will go!
This is the way poor daddy will go!"

"Such, Mr. Hawkins, was their excessive grief!"

Baron Brampton has placed it on record that one of the kindest and most virtuous judges of the old days was Littledale, who, however, was afflicted with a wife whom he could not control. She, on the contrary, controlled him, and left him no peace unless she had her will. At times, however, she overdid her business. Littledale had a butler who had been in the family many years, and with whom he would not have parted on any account. He would sooner have parted with her ladyship. One morning, however, this excellent butler came to Sir Joseph and said, with tears in his eyes:

"I beg your pardon, my lord——"

"What's the matter, James?"

"I'm very sorry, my lord," said the butler, "but I wish to leave."

"Wish to leave, James? Why, what do you wish to leave for? Haven't you got a good situation?"

"Capital situation, Sir Joseph, and you have always been a good, kind master to me, Sir Joseph; but, Oh, Sir Joseph, Sir Joseph!"

"What then, James, what then? Why do you wish

to leave? Not going to get married, eh—not surely going to get married? Oh James, don't do it!"

"Heaven forbid, Sir Joseph!"

"Eh, eh? Well then, what is it? Speak out, James, and tell me all about it. Tell me—tell me as a friend! If there is any trouble—"

"Well, Sir Joseph, I could put up with anything from you, but I can't get on with my lady!"

"My lady be—. Oh, James, what a sinner you make of me. Is that all, James? Then go down on your knees at once and thank God my lady is not your wife!"

The conceit of some judges has at times been laughable. As Baron Brampton has put it, "Some of them were overwhelmed with the importance of their position; none were ever modest enough to perceive their own small individuality amidst their judicial environments."

"On one occasion at Liverpool Assizes, Huddlestane and Manisty, the two judges on circuit, dined as usual with the Lord Mayor. The Queen's health was proposed, of course, and Manisty, with his innate good breeding, stood up to drink it, whereupon his august brother judge pulled him violently by his sleeve, saying: 'Sit down, Manisty, you damned fool! We are the Queen!'"

Although his severity at times led to his being termed the "hanging judge," there were occasions when the late Baron Brampton displayed considerable feeling when on the Bench. On one occasion a poor woman was tried before him in a circuit town for murdering her babe. The woman oppressed with a sense of shame, determined to drown her week-old child, and herself at the same time. The water, however, was not deep enough to drown her; she was accordingly put upon her trial for murder, and was eventually convicted. Hawkins was about to pronounce the inevitable sentence of death—much against his will—when the pompous old high sheriff, all importance and dignity, said:

"My lord, are you not going to put on the black cap?"

"No," replied the judge. "I'm not. I do not intend

the poor creature to be hanged, and I am not going to frighten her to death."

Addressing her by name he said: "Don't pay any attention to what I am going to read. No harm will be done to you. I am sure you did not know in your great sorrow and trouble what you were doing, and I will take care to represent your case so that nothing will harm you in the way of punishment."

He then mumbled over the words of the death sentence so that the poor woman shouldn't hear them.

There was another occasion when Hawkins had to test whether a boy witness understood the nature of an oath. In the course of his questions he said to the boy: "If I were to say you had an orange in your mouth, would that be the truth?"

"No, it would be a lie."

"And if I said you had one in your hand?"

"That would be another lie."

"And if I promised you a bag of oranges, and then didn't give them to you, what would that be?"

"That would be a lie."

"And if I did give them to you?"

"That would be the truth."

"Very well, I will." And he did.

As an example of how a clever counsel can by ridicule "kill" the testimony of a witness, the manner in which Baron Brampton—he was plain Mr. Hawkins at the time—cross-examined Bogle, the negro servant in the great Tichborne case is *par excellent*. Bogle, according to Baron Brampton's reminiscences, had sworn that Roger had no tattoo marks when he left England. In point of fact he had, and Bogle had to fit them to the claimant, who had had tattoo marks of a very different kind from Roger's. The claimant had removed his, and therefore was presented to the Court without any.

"How do you know Roger had no tattoo marks?" asked Mr. Hawkins.

"I saw his arms on three occasions." This was a serious answer for Bogle.

"When, and where, and under what circumstances?" followed in quick succession, so that there was no escape. The witness said that Roger had on a pair of black trousers tied round the waist, and his shirt buttoned up.

"The sleeves, how were they?"

"Loose."

"How came you to see his naked arms?"

"He was rubbing one of them like this."

"What did he rub for?"

"I thought he'd got a flea."

"Did you see it?"

"No, of course."

"Where was it?"

"Just there."

"What time was this?"

"Ten minutes past eleven."

"That's the first occasion; come to the second."

"Just the same," says Bogle.

"Same time?"

"Yes."

"Did he always put his hand inside his sleeve to rub?"

"I don't know."

"But I want to know."

"If your shirt was unbuttoned, Mr. Hawkins, and you were rubbin' your arm, you would draw up your sleeve——"

"Never mind what I should do. I want to know what you saw."

"The same as before," answers Bogle angrily.

"A flea?"

"I suppose."

"But did you see him, Bogle?"

"I told you, Mr. Hawkins, I did not."

"Excuse me, this was on the first occasion."

"Well, this was the same."

"Same flea?"

"I suppose."

"Same time—ten minutes past eleven?"

"Yes."

"Then all I can say is he must have been a very punctual old flea."

Exit Bogle, and with him his evidence.

The claimant, it might be mentioned, was not devoid of humour. One day during the trial, Mr. J. L. Toole came in, and was invited to sit next to Mr. Hawkins, which he did.

At the adjournment for luncheon the claimant muttered as they passed along: "There's Toole come to learn actin' from 'Arry Orkins."

On another occasion, when he was going into Court, an elderly lady dressed in deep mourning, presented the claimant with a religious tract. He thanked her, went to his seat, and perused the document. Then he wrote something on the tract, carefully revised what he had written, and threw it on the floor.

The usher was watching these proceedings, and, as soon as he could do so unobserved, secured the paper and handed it to Hawkins.

The tract was headed, "Sinner, Repent!"

The claimant had written on it: "Surely this must have been meant for Orkins, not for me!"

It was the claimant also who wrote the following in his pocket book: "Some has money, no brains; some has brains, no money; for them as has money no brains was made; for them as has brains, no money."

Arthur Orton's tribute to the "actin' of 'Arry Orkins," is not the only one which has been paid to the histrionic abilities of the great Judge. Many years ago an action for slander was tried at the Guildhall, in which Hawkins was for the defendant, and Mr. Joseph Brown, Q.C., for the plaintiff. The slander consisted in the defendant pointing his thumb over his shoulder and asking another man: "Do you know him? That's Joe Smith."

Mr. Joseph Brown, Q.C., had to rely upon the innuendo—"meaning thereby Joe Smith was a rogue"—and was very eloquent as to the slander unspoken but expressed by signs and tone. After an exhausting speech he sat down and buried his head in his bandanna, as his habit was.

Hawkins got up, and turned Mr. Joseph Brown's speech to ridicule in two or three sentences.

"Gentlemen," he almost whispered, after a very small whistle which nobody could hear but those close around, at the same time pointing his thumb over his shoulder at his opponent, "do you know him—do you know Joe Brown?" There was a roar of laughter. Joe looked up, saw nothing, and retired again into his bandanna.

Again the performance was gone through, "Do you know Joe Brown, the best fellow in the world?"

Brown looked up again, and was just in time to hear the jury say they had heard quite enough of the case. "No slander—verdict for the defendant."

Apropos of Toole, it may be permissible to tell this story, although its humour is histrionic rather than legal. Baron Brampton was on the Midland Circuit, at Derby, and Toole happened to be playing at the theatre in the town at the time. Catching sight of the features of the actor in the body of the Court, the judge sent him a note by the usher :

"Dear Johnny,—shall be sitting late to-night. My dinner will be your supper. Come to the 'lodgings' after the play and have a chat."

A pleasant evening was spent, and when Toole took his departure the judge held a candle to light him downstairs.

"What are you going to give that cove you tried to-day?" asked Toole, looking up; "I didn't think it a bad case myself." "Well," said Lord Brampton, "I thought five years, and I shall pass sentence tomorrow." "Thank you," said Toole; "I will just run round to the newspaper office and tell them the sentence before it is passed. It is not every actor who is in the know with a judge." "If you do," said Brampton, "I will never speak to you again." "Oh! I could not miss such a chance," said Toole; "think what a notice I shall get for my play if I tell them." There was a twinkle in his eye which Brampton noticed, and he appreciated the situation, and host and guest parted good friends.

There is, by the way, another flea story which Baron Brampton has told. Once at Aylesbury, while on the Midland Circuit, which he says was always famous for its ill accommodation of her Majesty's judges, he complained to the grand jury of the discomforts of the lodgings which had been assigned to him—an incident which afterwards caused one of the javelin men at the door to make the following scathing comment, to a friend, as the latter came out.

"That's a nice 'un. Did yer 'ear that, Jimmy? Orkins is a nice 'un to talk about lodgings. Let him look to his own cirkit—the 'Ome Cirkit—where my brother told me as how at a trial at Guildford the tenant of a house wouldn't pay his rent. For why? Because they was so pestered wi' wermin. And what do you think Orkins told the jury?—He was counsel for the tenant.—'Why,' he says, 'gentlemen, you heard what one of the witnesses said, how that the fleas was so outrageous that they ackshally stood on the backs o' the 'all chairs and barked at 'em as they come in.' That's Orkins on his own circuit; and 'ere he's finding fault with our own lodgings."

Talking of javelin men, Judge Parry, in "What the Judge Saw," tells an amusing story of Falkner Blair, the somewhat erratic counsel who befriended him when he first went to Manchester. Blair had a ready wit.

Once he was escorting some ladies round the law courts during the luncheon hour, when they came across the antique spears of the javelin men piled in a corner of the corridor outside the judge's room. "Whatever are those used for?" asked a lady, gazing at them admiringly.

"Those, my dear madam," said Blair, with prompt decision, "are used by the Judge in the Crown Court when he charges the Grand Jury."

The ladies looked at them with reverent awe and shuddered.

Doubtless many readers are aware that the favourite and constant companion of Baron Brampton was Jack, the little fox terrier given to him by Lord Falmouth.

Jack always accompanied the judge on circuit, and one day at Hereford, the Chaplain, a highly proper person, remarked :

“ My lord, are you really going to take the little dog to divine service in the Cathedral ? ”

The Baron looked quite astonished at the question, and then put his face down to the dog, pretended to whisper, and then to listen. Afterwards he said :

“ No. Jack says not to-day ; he doesn’t like long sermons.”

It was Baron Brampton too, who during the hearing of a trivial case in which counsel were exceptionally long-winded, wrote on a slip of paper which he handed to a friend in Court,

“ GREAT PRIZE COMPETITION FOR PATIENCE.

Hawkins - First Prize,
Job - Honourable Mention.”

To this may be added a couple of judicial verses regarding prosiness. Lord Justice Bruce once wrote :

“ The curate’s eyes our ladies praise,
I never see their light divine.
He always shuts them when he prays,
And when he preaches, closes mine.”

Jekyll, after yawning for hours, at the conclusion of the longwinded speech of a prosy serjeant, pencilled the following lines :

“ The serjeants are a graceful race,
Their dress and language show it ;
Their purple garments come from Tyre,
Their arguments go to it.”

Another example of Brampton’s wit is provided by an incident which occurred one day, when he was arguing a case before a magistrate, who snappishly told him that two blacks did not make a white.

“ They may sometimes,” replied Hawkins, promptly.

“ Indeed, how so ? ” asked the magistrate.

“ A pair of black Spanish fowls may be the parents of a

white egg," was the answer, which sent the Court into convulsions.

An example of Brampton's satirical ways with witnesses is related by the late Mr. T. E. Crispe, K.C., who, in 1909, retired from the Bar after thirty-five years' practice. In his early days Hawkins took part in an action brought by a young lady to recover the amount of two promissory notes, given her by an elderly admirer. Mr. Hawkins, who represented the defendant, asked if his name was Richard. Plaintiff answered, "Yes." "And I think you sometimes affectionately called him Dick?" "Yes, sir." "Ah! pretty little Dicky, you knew how to make him sing."

Lord Chief Justice Coleridge was one of the wittiest as well as the great luminaries of the Bar, and we get an admirable illustration of his wit in an incident which occurred one night at a dinner in the Middle Temple Hall, when the late King Edward, then Prince of Wales, was present. Except the usual royal toasts, none other were allowed. Coleridge, who was sitting next to the Prince, had reminded his Highness of the rigid rule, to the observance of which he promised compliance; but, notwithstanding, he proposed the health of the "Lord Chief Justice." The Chief was equal to the occasion, and in the course of a humorous reply to the toast said :

"Put not your trust in princes" was a lesson that all had learned from the Psalmist, and the truth of it had been verified that evening."

An amusing example of Lord Coleridge's quaint humour is afforded by a story told of the days when Wyndham West, Q.C., was Recorder of Manchester. When Lord Coleridge came on circuit he asked about West.

"I never see him at Westminster; what does he do?" he asked in his suavest and most silvery tongue.

"He's Recorder of Manchester," someone replied.

"Ah!"

"And Attorney-General for the Duchy of Lancaster."

"Dear me!"

"And Judge of the Salford Hundred Court of Record,"

“ Is he really ? ”

“ And Prosecuting Counsel for the Post Office.”

“ You don’t say so ! ” said Coleridge, throwing up his head in astonishment, “ What a lot of outdoor relief the fellow has ! ”

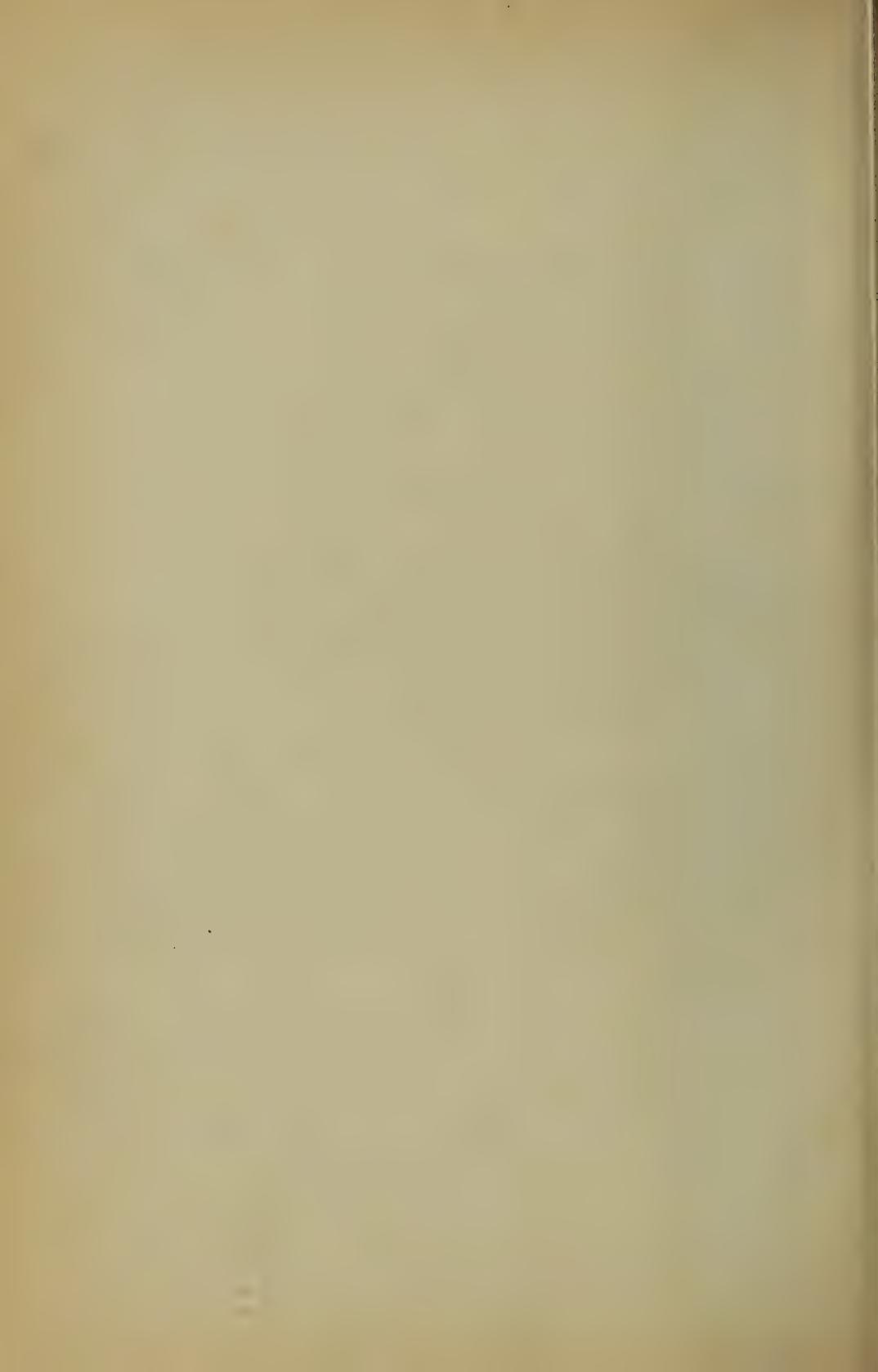
Referring to Lord Coleridge, mention might be made of a witticism on the part of Shee in a certain case. A witness, in describing a verbal encounter, said : “ Then the defendant turned round and said if ‘e didn’t ‘owld ‘is noise ‘ed knock ‘im off ‘is perch.”

“ Perch ? Mr. Shee, what is meant by perch ? ” asked the Lord Chief Justice.

“ Oh, perch, my lord, is any position where a man elevates himself above his fellows—for instance, a Bench, my lord.”

Lord Coleridge was a good deal bothered by that product of the nineteenth century, the interviewer, and on his way to Chicago one of these gentlemen, failing otherwise to draw him out, began to belittle the old country in the matter of lakes and rivers and mountains, and even men. Lord Coleridge bore it all patiently ; finally, the interviewer said : “ I am told my lord, you think a great deal of what you call your great fire of London. Well, I guess that the conflagration we had in the village of Chicago made your great fire look very small.” To which Lord Coleridge blandly responded : “ Sir, I have every reason to believe that the great fire of London was quite as great as the people at that time desired.”

BYGONE LEGAL WITS
JUDICIAL HUMOUR OF THE OLD DAYS
PART II



CHAPTER IV

BYGONE LEGAL WITS

JUDICIAL HUMOUR OF THE OLD DAYS

PART II

"Lawyers and woodpeckers have long bills."—*Proverb.*

LORD NORBURY has been described as "the most inveterate punster that ever sat upon the Bench," and the stories told of his punning seem to bear out this description. When a sporting barrister on circuit declared that he had shot thirty-three hares before breakfast, Norbury immediately exclaimed,

"Thirty-three hairs! Zounds, sir! then you must have been firing at a wig."

He once impatiently wanted to know what was the delay in trying a certain case, and was told that Mr. Serjeant Joy, who was to lead, was absent, but that the solicitor, Mr. Hope, had said that he would be back immediately. The judge very happily applied a quotation and thus restored himself to a good humour:

"Hope told a flattering tale,
That Joy would soon return."

When Norbury had been closely interrogating a witness of more than doubtful integrity the witness said in a whisper, not intended for the judge's ears, that he "didn't come there to be queered by the rum old 'un." "I'm old, it is true," said the judge instantly, "and I'm rum sometimes, and for once I'll be queer and send you to quod."

One of the warmest supporters of the Tithe Corporation Act was Lord Plunkett, who had a son in the Church. "How is it," said someone, "that so sensible a man as Plunkett cannot see the imperfections in the Act?" "Pooh! the reason's plain enough," said Norbury; "he has the son in his eye."

Being told that a shilling subscription was being raised to pay for the funeral of a poor attorney, Norbury exclaimed: "Only a shilling to bury an attorney! here's a guinea—go and bury one and twenty of them."

A counsel thought that he could overcome the punster on the Bench. One day, when Lord Norbury was charging a jury, the judge was interrupted by the braying of a donkey. "What noise is that?" cried Lord Norbury.

"'Tis only the echo of the Court, my lord," answered Counsellor Ready-tongue. Nothing disconcerted, the judge resumed his address; but soon the barrister had to interpose with technical objections. While putting them, again the donkey brayed. "One at a time, if you please," said the retaliating joker.

On pressing a reluctant witness, one day, to get at his profession, and being at length told he kept a racket-court, "And a very good trade, too," replied the judge, "so do I, so do I."

The registrar of one of the Irish criminal courts complained to his lordship, that the witnesses were in the habit of stealing the Testament after they had been sworn upon it. "Never mind," said his lordship, "if the rascals read the book, it will do them more good than the petty larceny will do them mischief. However, if they are not afraid of cord, hang your book in chains, and that, perhaps, by reminding the fellows of the fate of their fathers and grandfathers, will make them behave themselves."

The strange expedient was adopted, and the Testament remained afterwards secure.

Norbury, however, excelled himself in a civil action, respecting the validity of an alleged marriage between a Mr. Watson, and a Margaret Lee. His Lordship began

by congratulating Mr. Clarke (who closed the case for the plaintiff) on the great powers of his stentorian lungs, which he had used so effectually, as to have made himself heard, not only by every person in the court, but by the very passengers in the mailcoaches that went by the window. He was highly pleased to see Mr. Clarke exert himself so ably for his client. He wished at all times to hear free and independent advocates, and did not think that now and then a dash at the judge and jury was at all amiss. But really Mr. Clarke had raised his voice to such a hunting pitch, he had almost imagined himself in Spafields, or Smithfield at least.

With respect to Mr. Meara's deposition about selling tubs, he did not think his "Tale of a Tub" could have much weight. He begged to call the attention of the jury to the evidence of Mrs. Salter; and notwithstanding that she had been well salted in her cross-examination, he would request them to contrast it with that of Margaret Lee, and "Look on this picture, and on that." The jury would recollect the evidence of Gormon, who proved that both before and after the marriage was alleged to have taken place, Margaret Lee used to dine with Mr. Watson's servants, called him master, and, in short, instead of his having respected her as Mrs. Watson, he treated her as one of the very "Lees" of society.

His lordship summed up the remainder of the evidence, and concluded by congratulating the court and the jury that this trial was so nearly closed, for, from its great length, he feared it would have become a "Watson's Sheet Almanack," and detain them the whole year.

Giving judgment in another case in the Court of Common Pleas, in Dublin, his lordship observed, that it was insufficient for the defendant in a writ of right to say, "he claimed by descent." "That," continued his lordship, "would be a shrewd answer for a sweep who had got into your house by coming down the chimney: 'Pray, sir, how did you get into my house?' 'I got in by descent.' *Facilis descensus averni*; and this would be an easy and a sweeping way of getting in."

Lord Ellenborough—Lord Chief Justice from 1802 to 1818—used his wit with marked effect at times upon tiresome barristers. A particularly exasperating specimen was once arguing before him at unnecessary length a question as to the rating of certain lime quarries, and contended that “like lead and copper mines, they were not rateable, because the limestone in them could only be reached by deep boring which was a matter of science.”

“ You will hardly succeed in convincing us,” said the judge, with emphasis, “ that every species of boring is a matter of science.”

In another case before Lord Ellenborough a figure-loving barrister said: “ My lord, I appear before you in the character of an advocate from the City of London, my lord, the City of London herself appears before you as a suppliant for justice. My lord, it is written in the book of nature—” “ What book ? ” interrupted Ellenborough. “ The book of nature, my lord.” “ Name the page,” said the judge, with pen uplifted as if to make a note of the information.

There was an occasion too, when a young barrister, holding his first brief, began, “ The unfortunate client for whom it is my privilege to appear—my lord—the unfortunate client for whom I appear. I wish to say, my lord, my unfortunate client—” Leaning forward, Lord Ellenborough, interrupted the halting counsel in a soft, cooing voice: “ You may go on, sir. So far the Court is with you.”

Lord Ellenborough sometimes read lectures of quaint and grave sarcasm peculiar to the man. An eminent conveyancer, who prided himself on having answered 30,000 cases, came express from the Court of Chancery to the King’s Bench to argue a question of real property, taking for granted, rather too rashly, that common lawyers are little more acquainted with the Digest of Cruise than with the laws of China. He commenced his erudite harangue by observing that “ an estate in fee-simple was the highest estate known to the law of England.”

“Stay, stay,” interrupted the Chief Justice, with consummate gravity, “let me write that down.” He wrote, and read slowly and deliberately the note which he had taken of this A.B.C. axiom.

“An estate in fee-simple is the highest estate known to the law of England. The Court, sir, is indebted to you for this information.” There was only one person present who did perceive the irony, and that was the learned counsel who incurred it. But though impervious to irony, it was impossible even for his self-love to avoid understanding the home thrust of the judge at the conclusion of his harangue. He had exhausted the year-books and all the mysteries of the real property law in a sleepy oration, which effectually cleared the Court insensible alike to the grim repose of the Bench and the yawning impatience of the ushers; and when at the close of some parenthetical and apparently interminable sentences, the clock struck four, and the judges started to their feet, he appealed to know when it would be their pleasure to hear the remainder of his argument. “Mr. P.” rejoined the Chief Justice, “we are bound to hear you, and shall do so on Friday, but pleasure has been long out of the question.”

Ellenborough’s wit, however, was sometimes characterised by rudeness. A Quaker once appeared before him who, though he came somewhat smartly dressed instead of in the garb of his co-religionists, refused to take the oath, but wished to give his evidence under an affirmation. Lord Ellenborough asked if he really was a Quaker, and on being answered in the affirmative, said: “Do you really mean to impose on the court by appearing here in the disguise of a reasonable being?”

He was, however, somewhat nonplussed once by a bricklayer who was called as a witness and appeared in court in a somewhat dirty and untidy condition. “Really, witness, when you have to appear before this court, it is your bounden duty to be more clean and tidy in your appearance.” “Upon my life,” said the bricklayer, “if your lordship comes to that, I’m every

bit as well dressed as your lordship." "How do you mean, sir?" asked the judge angrily. "Why, faith," replied the other, "you come here in your working clothes, and I'm come in mine."

A witness dressed in a fantastical manner, having given very rambling and discreditable evidence, was asked in cross-examination, "What was he?" Witness: "I employ myself as a surgeon." Lord Ellenborough: "But does anyone also employ you as a surgeon?"

Henry Hunt, the famous demagogue, having been brought up to receive sentence upon a conviction for holding a seditious meeting, began his address in mitigation of punishment, by complaining of certain persons who had accused him of "stirring up the people by dangerous eloquence." Lord Ellenborough (in a very mild tone):—"My impartiality as a judge calls upon me to say, sir, that in accusing you of that they do you great injustice."

Lord Ellenborough's powers of ridicule may be summed up in the words of Lord Brougham. "He had no mean power of ridicule as playful as a mind more strong than refined could make it; while of sarcasm he was an eminent professor, but of the kind which hacks, and tears, and flays its victims, rather than destroys by cutting keenly. His interrogative exclamation in Lord Melville's case, when the party's ignorance of having taken accommodation out of the public fund was alleged—indeed, was proved—may be remembered as very picturesque, though, perhaps more pungent than dignified. 'Not know money? Did he see it when it glittered? Did he hear it when it clinked?'

"When a favourite special pleader was making an excursion, somewhat unexpected by his hearers, as unwonted in him, into a pathetic topic, he remarked: 'Ain't we, sir, rather getting into the high sentimental latitudes now?'"

The names of Mansfield, Maule, Eldon must, of course, also be added to the list of legal giants of the eighteenth and first half of the nineteenth centuries, who were

noted for their wit and humour. Lord Eldon's wit and good humour made him exceedingly popular, his manner being particularly bland and agreeable.

"I admit freely and cordially," said Lord Brougham, "that of all the judges before whom I have practised—and I have practised much—he is out of all comparison, and beyond all doubt, by much the most agreeable to the practitioners, by the amenity of his manners, and the intuitive quickness of his mind. A more kindly disposed judge to all the professional men who practise in his court never, perhaps, existed."

Sir James Graham, the solicitor, was at one time engaged in a great many private and other bills, and was frequently entrusted with the office of carrying them up from the Lower to the Upper House. One evening Sir James came up to the bar no less than twelve times, with twelve separate bills. On the twelfth time Lord Eldon said to the solicitor: "What, have you got another? When I used to know you first you used to be called Jem Graham, but now we'll call you Bill Graham!"

It is said that Lord Eldon behaved towards solicitors in his private room almost as though they were his equals. "You never gave me a brief," he said once to one of them, "How was that?" "Yes, but I did," replied the solicitor, more curtly than courteously. "Nay, nay, but I am satisfied of the contrary, and I must be the best judge on such a point." He then proceeded to express a conviction hostile to the solicitor's case, who rudely exclaimed, "Your lordship is decidedly wrong. I'll have the decision reversed in the House of Lords." "Perhaps, Mr. —," said the Chancellor, rising, "you had better take this chair and pronounce judgment yourself."

An illustration of Lord Eldon's humour is afforded by an incident which occurred during the hearing of a case in the Chancery Court. A counsel, by way of denying collusion suspected to exist between him and the counsel who represented another party, having said:

"My lord, I assure you there is no understanding between us," Lord Eldon observed :

"I once heard a squire in the House of Commons say of himself and another squire: 'We have never through life had but one idea between us'; but I tremble for the suitors when I am told that two eminent practitioners have no understanding between them."

The career of John Scott, Earl of Eldon, was even more remarkable than that of Lord Erskine. He was a twin child of a family of sixteen, his father being a coal-fitter in Newcastle. Young John was educated at the Newcastle Grammar School. William (who became Lord Stowell), an elder brother, after passing through the Grammar School, proceeded to Oxford, where he distinguished himself so effectually that in 1766, when the father wrote to notify an intention of making his youngest son a coal-fitter, he could reply: "Send Jack up to me; I can do better for him." Scott accordingly matriculated in 1766, and the year following was elected to a fellowship, and took his B.A. in 1770. He subsequently won the Chancellor's essay prize.

His intention was to enter the Church and obtain a college living. But, in November, 1772, he eloped to Scotland with Elizabeth Surtees, the daughter of a respectable Newcastle banker, and married her. Neither of them had a sixpence independent of their parents; and the marriage was equally displeasing to the family of each. Scott was obliged to relinquish his fellowship; but a year of grace remained, during which he had the option of accepting a college living. During this year he began the study of the law, with a view (to use his own words) of having two strings to his bow. But the Church was "his first mistress," and it was not until all chance of a college living was at an end that he decided to pursue the legal profession.

The parents, eventually reconciled, settled the interest of £3,000 at 5 per cent. upon them. The young couple removed to London, and took chambers in Cursitor Street. The husband entered at the Middle Temple,

and devoted himself, with intense earnestness, to his legal studies. A kind conveyancer, knowing of his straightened circumstances, admitted him to read in his chambers without the usual fee. At length he was called to the Bar in 1776.

He made but ten shillings and sixpence his first year, and his prospects did not encourage a London career. He therefore took a house in Newcastle with the view of establishing himself there, but still lingered in London. In his second year at the Bar, his prospects seemed to brighten. His brother William, who, by this time, held the Camden professorship of ancient history, was in a position materially to advance his interests.

The young barrister practised at first in the King's Bench Courts; but a whim of fancy induced him to change to the Court of Chancery. The change was fortunate, for many years might have elapsed before the stores of real-property lore, which formed the bulk of his legal knowledge, could have been brought into play in the Courts of common law. As things turned out, a speedy opportunity was afforded. Early in his fourth year occurred the case of *Ackroyd v. Smithson*, settling a rule of law, which laid the foundation of his fame. "Young man," whispered a well-known solicitor to him as he left Westminster Hall, "your bread and butter is cut for life." He was next employed on an election petition by the notorious Bowes, of Gibside, and was subsequently retained as leading counsel in the Clitheroe election petition, where he greatly increased his reputation. From this time his success was certain, and in two years he took silk.

Concerning his early days, Lord Eldon has given the following amusing story in his *Anecdote Book*. "When I left school, in 1766, to go to Oxford, I came up from Newcastle to London in a coach, then denominated, on account of its quick travelling—as travelling was then estimated—a fly; being, as well as I remember, nevertheless, three or four days and nights on the road. There was no such velocity as to endanger overturning, or other

mischief. On the panels of the carriage were painted the words, 'Sat cito, si sat bene,'—words which made a lasting impression on my mind, and have had their influence upon my conduct in all subsequent life. Their effect was heightened by circumstances during and immediately after the journey.

"Upon the journey, a Quaker, who was a fellow traveller, stopped the coach at the inn at Tuxford, desired the chambermaid to come to the coach door, and gave her a sixpence, telling her that he forgot to give it her when he slept there two years before. I was a very saucy boy, and said to him: 'Friend, have you seen the motto on this coach?' 'No.' 'Then look at it; for I think giving only sixpence now is neither sat cito nor sat bene.'

"After I got to town, my brother, now Lord Stowell, met me at the 'White Horse,' in Fetter Lane, Holborn, then the great Oxford house, as I was told. He took me to see the play at Drury Lane. Love played Jobson in the farce, and Miss Pope played Nell. When we came out of the house it rained hard. There were, then, few hackney-coaches, and we got both into one sedan-chair. Turning out of Fleet Street into Fetter Lane, there was a sort of contest between our chairmen and some persons who were coming up Fleet Street into Fetter Lane. In the struggle, the sedan-chair was overset, with us in it.

"This, thought I, is more than sat cito, and certainly it is not sat bene. In short, in all that I have had to do in my future life, professional and judicial, I have always felt the effect of this early admonition, on the panels of the vehicle which conveyed me from school—'Sat cito si sat bene.' It was the impression of this which made me that deliberative judge—as some have said, too deliberative—and reflection upon all that is past will not authorise me to deny that whilst I have been thinking, sat cito qui sat bene may not have been sufficiently recollected whether sat bene si sat cito had had its due influence."

Justice Maule's judgments are mostly buried in long obsolete law-books, but his wit survives to keep his memory green. "My lord," once said a witness to his lordship, "you may believe me or not; but I have not stated a word that is false, for I have been wedded to truth from my infancy." "I can quite believe that, sir," Maule drily answered, "but the question is—how long have you been a widower?"

On another occasion, when a prisoner who had been pronounced guilty by the jury, exclaimed hotly: "May God strike me dead, my lord, if I am not an innocent man." The Judge waited a few moments and then said: "Prisoner at the Bar, as Providence has not seen fit to interfere, the sentence of the law is—"

In Mr. Justice Maule's day the bailiff in charge of the jury was sworn to "keep them without meat, drink or fire." When once the bailiff asked his lordship's permission to grant a juryman's request for a glass of water, the judge deliberated solemnly a few moments, and then, with a twinkle in his eye, pronounced judgment thus: "Well, a glass of water is not meat, and I should not call it drink. Yes, you may."

"Have you ever been sentenced to imprisonment?" once asked Maule of a prisoner convicted of theft. "Never, never!" almost sobbed the man, who presented a pathetic figure of contrition. "Don't cry," said the Judge, consolingly, "you are going to be now!" It was the same humorous, if rather heartless, Judge to whom a counsel, indignant at the discredit heaped on his client, exclaimed: "Well, be it so; my client is a scoundrel, and the worst liar in the world." "Mr. _____," interjected his lordship, in dignified rebuke, "when you say your client is the worst liar in the world, are you not forgetting yourself?"

But, of course, the best example of Maule's caustic humour is that provided in his summing up in the case of a man charged with bigamy, who, when asked to say why judgment should not be pronounced upon him, replied, "Well, my lord, my wife took up with a hawker,

and ran away five years ago, and I have never seen her since, and I married this other woman last winter."

The Judge then said, with appropriate severity of demeanour : " I will tell you what you ought to have done, and if you say you did not know, I must tell you the law conclusively presumes that you did. You ought to have instructed your attorney to bring an action against the hawker for criminal conversation with your wife. That would have cost you about one hundred pounds. When you had recovered substantial damages against the hawker, you would have instructed your proctor to sue in the Ecclesiastical Courts for a divorce *a mensâ atque thoro*. That would have cost you two or three hundred pounds more. When you had obtained a divorce *a mensâ atque thoro*, you would have had to appear by counsel before the House of Lords for a divorce *a vinculo matrimonii*. The Bill might have been opposed in all its stages in both Houses of Parliament ; and altogether you would have had to spend about one thousand or twelve hundred pounds. You will probably tell me that you never had a thousand farthings in the world ; but, prisoner, that makes no difference. Sitting here as a British Judge, it is my duty to tell you that this is not a country in which there is one law for the rich and another for the poor."

Judge Maule could also be sarcastic in his remarks to counsel appearing before him. A barrister who had been presenting his case in a very haphazard fashion was interrupted with : " Mr. Barker, could you not state your facts in some kind of order ? Chronological is the best, but if you cannot manage that, try some other—alphabetical, if you please."

His irony is further illustrated by his address to a jury on one occasion.

" Gentlemen,—The learned counsel is perfectly right in his law, there is *some* evidence upon that point ; but he's a lawyer, and you're not, and you don't know what he means by some evidence, so I'll tell you. Suppose there was an action on a Bill of Exchange, and six people

swore that they saw the defendant accept it, and six others swore they heard him say he should have to pay it, and six others knew him intimately, and swore to his handwriting ; and suppose, on the other side, they called a poor old man, who had been at school with the defendant forty years before, and had not seen him since, and he said he rather thought the acceptance was not his writing, why that'd be *some* evidence that it was not, and that's what Mr. _____ means in this case."

There was also an occasion when a very stupid jury were called upon to convict a man on the plainest evidence. A previous conviction was proved against him, by the production of the usual certificate, and by the evidence of the policeman who had him in charge. The judge summed up at great length. He told the jury that the certificate was not conclusive ; that the question was entirely for them ; that policemen sometimes do tell lies, and much else of the kind, concluding as follows : " And, gentlemen, never forget that you are a British jury, and if you have any reasonable doubt on your mind, God forbid that the prisoner should not have the benefit of it." The jury retired, and were twenty minutes or more before they found out that the judge had been laughing at them, and made up their minds that the identity was proved.

Judge Maule was noted for splitting straws on the Bench, an instance of which is related in connection with special demurrers. A man was described in a plea as " I. Jones," and the pleader, probably, not knowing his name, referred, in another part of the plea to " I." as an initial. The plaintiff demurred (*i.e.*, said that the plea was bad), because " I." was not an initial. Sir W. Maule said that there was no reason why a man might not be christened " I." as well as Isaac, inasmuch as either could be pronounced alone. The counsel for the plaintiff then objected that the plea admitted that " I." was not a name by describing it as an initial. " Yes," retorted the judge, " but it does not aver that it is not a final as well as an initial letter."

We are indebted to Sergeant Robinson's reminiscences for the following further examples of amusing summings-up on the part of Maule. An action was brought by an attorney against defendant for calling him a thief, a rogue, and a *fiend* ; and, as the plaintiff had no proof of any pecuniary special damage, he had to rely on the injury that must necessarily be inflicted on him in his professional capacity by such imputations.

In summing up, Maule said :

" As to the word thief, it is a very ambiguous one, and does not necessarily impute what the law considers an indictable offence. For instance, to steal a man's wife, to steal away the affections of another, to steal a march upon any one, would be no crime in law. Wives, human affections, and such things as marches, are not at present the subjects of larceny. Rogue is different ; it might certainly affect the plaintiff professionally, because a rogue ought not to be allowed to practise as an attorney. But the same principle does not apply to the term *fiend* ; it may not be a complimentary expression, but I do not think to be a fiend disqualifies a man from being an attorney. If the learned counsel will point out to me any case where the court has refused an application to place a fiend upon the rolls, I shall be happy to consider it."

At Maidstone, a case came before Justice Maule in which the prisoner was charged with coining. The counterfeit coin, when produced, turned out to be a very bungling, awkward piece of workmanship, and the counsel, at the close of the case for the prosecution, took the piece of metal in his hand, looked at it contemptuously, and contended that it was absurd to suppose that such a thing as that was ever intended to represent the current coin of the realm. It might be meant to betoken anything or nothing. None but idiots could ever be deceived by accepting it as genuine money, and the legislature was too wise to pass laws simply for the protection of idiots.

After a good deal of such comment, delivered in his usual jaunty style, the judge summed up. He began by highly complimenting the counsel for his very able defence.

He had laid down the law to them with perfect accuracy, viz., that the coin alleged to be counterfeit must be intended to represent the current coin of the realm.

“ I will only observe,” he continued, “ what he did not much enlarge upon, that the intent is everything ; the result is not so material. It is your duty to pay every regard to what the learned counsel has urged, for it is well worthy your attention. Examine what has been called a ‘ thing ’ for yourselves. You will remark that it has the Queen’s head on one side, and the royal arms on the other. You have been told that it may betoken anything or nothing. Well, if you think on examination it was meant to represent, say, a milestone, a box of dominoes, or a pair of snuffers, you will adopt the learned counsel’s view, and acquit the prisoner ; but if, in spite of its rude, clumsy execution, it was still *intended* to represent current coin, you will find him guilty.”

Lord Mansfield was a man of just and pleasant wit. On one occasion a Jew had brought an action for the recovery of a debt from a Christian, and the defendant, while admitting liability, pleaded that the Jew had no right by the laws of England to bring an action. “ Well,” said the judge, “ have you no other plea ? ” “ No, my lord. I insist upon this plea.” “ Do you so ? ” said Mansfield ; “ then let me tell you that you are the greater Jew of the two.”

There was another occasion when a Jew was brought before him to justify bail for fifty pounds, who made up in lace upon his coat what he wanted in honesty in his character. The counsel put to him the usual question—“ Are you worth fifty pounds after your just debts are paid ? ” “ How can you ask such a question,” exclaimed Lord Mansfield ; “ don’t you see that he would burn for thrice the money.”

In the days when the theft of anything beyond the value of a few pence was punishable with death, Lord Mansfield, wishing to save a man who had stolen a watch, directed the jury to value it at tenpence. “ Tenpence,” my lord ! ” exclaimed the indignant prosecutor ; “ why,

the very fashion of it cost me five pounds!" "Oh," said the judge, unmoved, "but we must not hang a man for fashion's sake."

That his lordship was quite ready to join in a laugh against himself, is illustrated by an incident which occurred when he was trying a case concerning a collision at sea. A sailor witness chanced to use the nautical expression, "abaft the binnacle." "One moment," interrupted Mansfield; "you will kindly enlighten me as to the meaning of the expression 'abaft the binnacle.' " This quite natural question so amused the salt, who had evidently been imbibing too freely, that he exclaimed, with a loud laugh, "He's a pretty fellow for a judge! Bless my jolly old eyes! You've got a pretty landlubber for a judge! He wants me to tell him where 'abaft the binnacle' is." Joining in the general laughter, Lord Mansfield retorted, "Well, my friend, you must fit me for my office by telling me where 'abaft the binnacle' is; you have already shown me the meaning of 'half-seas over.' "

Another story which Mansfield told against himself concerns Mr. Dunning, afterwards Lord Ashburton, who by his conduct did much to support the character and dignity of a barrister, which was frequently disregarded by Lord Mansfield, at that time Chief Justice. Lord Mansfield possessed great quickness in discovering the gist of a cause, and, having done so, used to amuse himself by taking up a book or a newspaper whilst counsel was addressing the court. Whenever Mr. Dunning was speaking, and his lordship seemed thus to hold his argument as of no consequence, the advocate would stop suddenly in his address, and on his lordship observing, "Pray go on, Mr. Dunning," he would reply, "I beg your pardon, my lord, but I fear I shall interrupt your lordship's more important occupations. I will wait until your lordship has leisure to attend to my client and his humble advocate."

The parsimonious ways of Baron Kenyon, one of the past Lord Chief Justices of England, have been responsible

for many a witticism on the part of brother justices, and many a good story.

Lord Kenyon occupied a large, gloomy house in Lincoln's Inn Fields, where it was said, "All the year through it is Lent in the kitchen and Passion-week in the parlour." Some one having mentioned that, although the fire was very dull in the kitchen grate, the spits were always bright.—"It is quite irrelevant," said Jekyll, "to talk about the spits, for nothing 'turns' upon them."

Lord Kenyon studied economy even in the hatchment put up over his house in Lincoln's Inn Fields after his death. The motto was certainly found to be "Mors janua vita"—this being at first supposed to be the mistake of the painter. But when it was mentioned to Lord Ellenborough, "Mistake!" exclaimed his lordship, "It is no mistake. The considerate testator left particular directions in his will that the estate should not be burdened with the expense of a diphthong!"

Kenyon was curiously economical about the adornment of his head. It was observed for a number of years before he died that he had two hats and two wigs; of the hats and the wigs, one was dreadfully old and shabby, the other comparatively spruce. He always carried into Court with him the very old hat and the comparatively spruce wig, or the very old wig and the comparatively spruce hat. On the days of the very old hat and the comparatively spruce wig he shoved his hat under the bench, and displayed his wig; but on the days of the very old wig and the comparatively spruce hat he always continued covered. He might often be seen sitting with hat over his wig, but the rule of Court by which he was governed on this point is doubtful.

His parsimony was even more remarkable than his deficiency of scholarship. "His dress," says a biographer, "was the daily subject of joke or comment whenever the Lord Chief Justice appeared and took his seat on the bench. I happened to be in conversation with Lord (then Mr.) Erskine, at the Guildhall, before Lord Kenyon arrived there. When he entered the Court Pope's lines

in the "Dunciad," on Settle, the poet, came across me, and I quoted them involuntarily :

" Known by the band and suit which Settle wore—
His only suit for twice three years before."

" The period of six years," said Erskine, laughing, " during which that poet had preserved his full-trimmed suit in bloom seemed to Pope to be the maximum of economy ; but it bears no proportion to Kenyon's. I remember the green, which he now has on, at least a dozen years ago ! " " When I last saw the learned lord," continues the biographer, " he had been Lord Chief Justice for nearly fourteen years, and his coat seemed coeval with his appointment to the office. It must have been originally black, but time had mellowed it down to the appearance of a sober green, which was what Erskine meant by his allusion to its colour. I have seen him sit at Guildhall, in the month of July, in a pair of black leather breeches ; and the exhibition of shoes, frequently soled, afforded ample proof of the attention which he paid to economy in every part of his dress." The learned judge had a trick of placing his feet in such a way as to make his economy in this respect visible to the whole Court. This gave rise to a joke amongst the attorneys, who used to say, if they wanted a judge's order for leave to amend any error in the pleadings, " I shall take out a summons before Kenyon, because he can't refuse an amendment for the soul (sole) of him ! "

Lord Kenyon was once responsible for an amusing address to a prisoner. Having sentenced a dishonest butler for stealing his master's wines, he thus addressed the prisoner :

" Prisoner at the bar, you stand convicted, on the most conclusive evidence, of a crime of inexpressible atrocity—a crime that defiles the sacred springs of domestic confidence and is calculated to strike alarm into the breast of every Englishman who invests largely in the choicer vintages of Southern Europe.

" Like the serpent of old, you have stung the hand of

your protector. Fortunate in having a generous employer, you might, without dishonesty, have continued to supply your wretched wife and children with the comforts of sufficient prosperity and even with some of the luxuries of affluence ; but, dead to every claim of natural affection and blind to your own real interests, you burst through all the restraints of religion and morality, and have for many years been feathering your nest with your master's bottles."

The accusation which has often been levelled against judges—that they cling to the Court too long, and should seek retirement or be compelled to retire long before they do, reminds one of a story told of Sir William Wightman, who held office in the old Court of Queen's Bench far beyond the prescribed time. But at last, on the eve of the Long Vacation, he took a sort of farewell of his brother judges. However, when the Court sat again he turned up smiling at Westminster Hall.

" Why, brother Wightman," said Sir Alexander Cockburn, " you told us that you intended to send in your resignation to the Lord Chancellor before the end of August."

" So I did," said Sir William, " but when I went home and told my wife she said :

" ' Why, William, what on earth do you think that we can do with you messing about the house all day ? ' so you see I was obliged to come down to Court again."

Which might appropriately be followed by this story of Lord Coleridge. An action was being tried before him for damages for the death of a sheep dog, a winner of many prizes at bench shows, and counsel for the defence was endeavouring to show that the dog had " had his day," and that damages should be nominal. Lord Coleridge, however, was sweetly slumbering, and counsel felt the necessity for rousing him, if possible. So, gradually raising his voice, he asked one of the plaintiff's witnesses : " Is it not your experience, as an exhibitor, that when an old dog has taken his place regularly on the bench for many years he gets sleepy and past his work ? " The laughter that followed had the desired effect.

Serjeant Ballantine used to tell some amusing stories of Mr. Justice Wightman's quiet humour, of which the following is a good sample. "I remember," said the Serjeant, "a very excellent and learned friend of mine, not, however, famous for his brevity, had been for a portentous time enforcing his arguments before a Kentish jury. Mr. Justice Wightman, interposing, said, "But, Mr. ——, you have stated all this before." "Have I, my lord?" said the barrister. "I'm very sorry. I quite forgot it." "Don't apologise, Mr. ——," was the soothing answer, "it was such a long time ago!"

Ballantine, by the way, figures in an amusing story told by Judge Parry regarding his father, Serjeant Parry, who was Ballantine's great rival at Westminster and on circuit. Parry and Ballantine were engaged in a case before Baron Martin, and the former heard a Scotch clerk in whispered tones pointing out from a friend beyond Tweed the various celebrities.

"'Who is yon?' whispered the visitor, pointing to the judge.

"'Martin! Baron Martin,' replied the cicerone. 'He's a grand mon, a great mon!'

"'And the mon that's speakin' the noo!'

"'That's Ballantine. He's a great advocate. He's a grand mon!'

"'And the big mon sitting next him?'

"My father picked up his ears intently. The guide's voice fell a semitone to a minor key. 'That! Oh, that's Porry! Serjeant Porry. He's a highly over-r-rated mon!'"

Apropos of Sir George Jessel's weakness in the matter of dropped "h's," the late Judge Willis used to tell an amusing story, in which Serjeant Parry also figures. Said a little junior, who had heard Jessel for the first time, to Serjeant Parry:

"Why, Parry, he drops his aitches."

"I shall never forget," said Willis, when relating the story, "the manner in which the Serjeant—his forehead moving backwards and forwards, as was usual when he

was excited—turned round, glaring at him, and said, ‘Sir ! I would rather drop my ‘h’s’ with Jessel in hell than aspirate with you in heaven.’”

Incidentally it might be mentioned that Serjeant Ballantine did not find the law very profitable at first. For he has related that he was called to the Bar in June, having attained the mature age of twenty-one the preceding March. Between that period and the following Christmas he made four guineas and a half ; the second year he made thirty guineas ; and the third seventy-five. Neither did he measure his expenditure by his income. His father had undertaken to furnish his chambers, and one of the principal articles he sent was a horsehair armchair with only three legs, upon which he got so accustomed to balance himself that he scarcely felt safe on one furnished with the proper complement.

The day came, however, when Ballantine received the phenomenal fee of 10,000 guineas. This was in 1875, when he was briefed to defend the Gaekwar of Baroda, who was charged with attempting to poison Colonel Phayre, the Resident at Baroda.

Ballantine was an indifferent lawyer, and seldom looked up precedents. Apparently his clients knew of this failing, for before he sailed for India they sent him a small library of books on Indian criminal jurisprudence. Apropos of this, the Serjeant on his return told his confreres of an amusing episode of his voyage.

“ When-ar,” said he in his peculiar way, “ I was-ar briefed to defend the Gaekwar of Baroda, my clients sent me a lot of books on Indian law-ar, in a mahogany box. On my way to Indi-ar I put in a few days at Paris. One morning I said to Hilary, my juni-ar, who accompanied me, ‘ My de-ar boy, just go out and buy me a nice selection of French lit-er-a-ture ; you know the style I like—yellow backs, just a little warm—and buy a good many of them, we are in for a long journey’—and, begad ! Hilary came back with the nicest selection of French lit-er-a-ture you could possibly imagine : Paul de Kock and Guy de Maupassant, and so on. Well, we didn’t

know where to pack them, but all at once I thought of a mahogany box ; so we turned the law books out, and we put the French books in——” The Serjeant paused.

“ And what became of the law books ? ” said one of the listeners.

“ Ah ! begad,” said the Serjeant, “ I quite forgot to in-qui-ar.”

Ballantine, however, with all his bluster was somewhat deficient in courage, judging from the following incident related by Serjeant Robinson. Ballantine was one day prosecuting a case before the Common Serjeant, and the counsel who defended was a wild Irishman, who had never shown his face in the Court before, and whose manners were very blustering and uncouth. At length, while examining one of his witnesses, the counsel defending put to him an outrageously irregular question.

Ballantine hastily rose, saying : “ My lord, I object to this mode of examining a witness.”

“ You object, do you, sir ? ” said the Hibernian, turning round and gazing at Ballantine with a threatening air. “ I was tould, when I came here, that what I said would be sure to be objected to ; but I am not to be put down, sor, and will prove to my lord judge that it is as genteel a question as ever put by a counsellor to a deponent, and that in spite of your objection——”

Meanwhile Ballantine turned to O’Brien, who was seated next to him, and said, “ Who is this fellow ? Do you know him ? ”

“ Oh, yes,” said O’Brien. “ His name is O’Flaherty. He is a regular fire-eater, and has killed one man and winged two or three others.”

“ You don’t say so,” said Ballantine ; and he immediately rose, and said, “ My lord, I withdraw my objections.”

Serjeant Merewether might well be classed with Ballantine, for few were readier with a smart answer in Court. Being once engaged in a Parliamentary case with Lord ——, the latter, remarkable for his brusque manner, not to call it by a stronger name, and seeking

to justify himself for having contradicted a statement made by the learned Serjeant, said in a tone which betrayed his dissatisfaction :

“ Pass me that bag, and I will show you.”

“ Bag ! What bag ? ” asked the Serjeant.

“ Why, the one with the letters on it.”

“ What letters ? ”

“ The letters E.B.D. Can’t you see them ? ” said his lordship impatiently.

“ E.B.D. ! ” repeated the Serjeant, who appears to have been somewhat irritated ; for he added, *sotto voce*, “ U.B.D. ! ”

Quite a character in his way was Serjeant Arabin. In sentencing a prisoner, convicted of stealing from his employer, he once said : “ Prisoner at the bar, if ever there was a clearer case than this of a man robbing his master this case is that case.”

Having to pass judgment on a man convicted upon three indictments, he remarked : “ Prisoner at the bar, you have been found guilty on several indictments, and it is in my power to subject you to transportation for a period very considerably beyond the term of your natural life, but the Court in its mercy will not go so far as it lawfully might, and the sentence is that you be transported for two periods of seven years each.”

In sentencing a man to a comparatively light punishment, the Serjeant on one occasion said : “ Prisoner at the bar, there are mitigating circumstances in this case that induce me to take a lenient view of it, and I will therefore give you a chance of redeeming a character that you have irretrievably lost ” ; while he once remarked, “ My good man, don’t go gabbling on so. Hold your tongue, and answer the question that is put to you.”

Conviviality on circuit in the old days was the rule rather than the exception, and there is a story told of a joke once played by a merry party of Serjeants, including Goulburn, Clark, Vaughan and Adams, on the old Midland circuit.

The party were congregated at an hotel where the

judge, Sir James Alan Park, was staying. One of the body had escaped early, and was supposed to have gone to bed, contrary to all circuit rules ; it was determined to seek him, and the whole party, with as much steadiness as they could preserve, entered what they supposed to be his bedroom, and jerked the clothes off the bed of its sleeping occupant. Imagine their horror when they were confronted with the venerable countenance of the judge.

Their disappearance was quickly made, and grave deliberations were entered into as to what was to be done, and it was determined that Serjeant Goulburn, a great favourite and friend of his lordship, should explain and apologise. Accordingly, next morning, with no small trepidation, he proceeded to do so, stating whom it was intended to have awakened. "No, no," said Sir James, shaking his head, "brother Goulburn, it was no mistake, for I heard my brother Adams say, 'Let us unearth the old fox.'"

That the counsel who can flatter a judge at the right moment gains an advantage is evident from an anecdote told by the late Mr. Crispe, K.C., in his reminiscences regarding Sergeant Wheeler, who dearly loved his little joke. On one occasion Mr. Crispe had to plead before him at Brentford. The Registrar was a new one, and asked him his name.

"I told him 'Crispe,'" to quote the eminent counsel's own words. "He then said, would I write it down. I gave it him on a slip of paper, which he handed up the judge, who, of course, knew me well. At the same time he said, 'Mr. Crispe, sir.' 'Crispee,' said the judge, in an audible whisper. 'No, sir, the gentleman said Crispe.' 'I say Crispee—Crispee !' said the judge, in a rising tone—'I assure you, sir'—'I say Crispee !'"

"My confreres were beginning to chuckle in the jeering way they have, and there was a rising titter in Court. If I did not say something I was lost. I therefore rose in my place, and addressing the judge seriously, and in my best manner, said : 'I fear your Honour is in some

difficulty as to the pronunciation of my name. In my case the Latin rule does not apply, and “e” final is “e” mute.’ ‘Ah !’ said the judge, with a twinkle in his eye. ‘Well——?’ He was not going to let me off, so I continued, ‘Your Honour, being a classic, is probably thinking of Sallust—not the historian, but the wine-bibber, of whom Horace speaks in one of his odes in the vocative case, ‘O Crispe Sallusti.’’ I scored ; the judge was delighted at the open compliment to his scholarship (no idle one), and he gave me a verdict in a horse-coping case which I did not expect to win.’’

Of another Serjeant—Serjeant Sleigh—this story is told. One day he was prosecuting in a libel case at the Old Bailey, and addressing the jury said :

“ Gentlemen, my client is a che-e-se-monger, and the reputation of a chee-e-se-monger in the City of London is like the bloom of a peach—touch it, and it goes for ever.”

Mr. Crispe, K.C., also tells this story of Serjeant Adams, who had a very pleasant wit and knew how to deal with any counsel who took to highfalutin language. On one occasion, after an altercation with the judge, the counsel for the prisoner in his address to the jury reminded them that “They were the great Palladium of British liberty ; that it was their province to deal with the facts—the judge with the law ; that they formed one of the great institutions of their country, and that they came in with William the Conqueror.”

Adams, at the end of his summing-up, said :

“ Gentlemen, you will want to retire to consider your verdict, and as it seems you came in with the Conqueror, you can now go out with the beadle.”

Mr. T. E. Crispe, K.C., also refers to that somewhat eccentric counsel, Wharton, for a time member for Bridport. Wharton was a great snuff-taker, and was in the habit of making a very unseemly noise when using his huge bandana. One day, in Baron Kelly’s Court, at a time when that famous judge had become somewhat feeble, being much distressed by any sudden noise in Court, Wharton was extra vigorous, and after an explosion

of unusual violence the poor judge, writhing, lifted his hands, and in a tone of pathetic expostulation, uttered : “ Mr. Wharton ! Mr. Wharton ! ” The aggressor, thrusting his handkerchief into his pocket, said : “ My lord, I will retire to another place where I may blow my nose in peace.”

On one occasion, Crispe was opposed to Wharton in a case in which damages were claimed for injuries caused by a sack of grain falling from a crane on to Crispe’s client. The case was a simple one, and the only question which it seemed necessary to settle was “ how much.” Wharton, however, made much ado about nothing, and when the luncheon half-hour arrived he was still addressing the Court. As the judge, Mr. Justice Archibald, rose, he said : “ We will now adjourn, and, Mr. Wharton, I hope you will take the opportunity of conferring with your friend, Mr. Crispe, and settling the matter out of Court.”

“ Not he ! ” says Mr. Crispe. After the adjournment, Wharton kept up the game, but at last had to address the jury, and in the course of his speech, for every word of which I vouch, he said : “ Gentlemen, I think it only courteous to the learned judge, to refer to the advice his lordship gave me to settle the matter out of Court. That reminds me of a case, tried in a County Court, in an action for *detinue* of a donkey. The plaintiff was a costermonger, and the defendant a costermonger ; they conducted the case in person. At one o’clock the judge said : ‘ Now, my men, I’m going to have my lunch, and before I come back I hope you’ll settle your dispute out of Court.’ When he returned the plaintiff came in with a black eye and the defendant with a bloody nose, and the defendant said : ‘ Well, your Honour, we’ve taken your Honour’s advice ; Jim’s given me a damn good hiding, and I’ve given him back his donkey.’ ”

The scream of laughter in Court may well be imagined.

Mr. Montagu Williams has placed it on record that the most eccentric and oddest character he ever met in the

Courts was a barrister named Langford, who appeared every session, both at Clerkenwell and the Old Bailey, for the purpose of receiving his "soup"—the deposition of the Court to prosecute in a case in which the Crown was not represented. These depositions were handed by the clerk to Langford, in virtue of his being one of the senior members of the Bar. The deposition fee would sometimes only amount to £1 3s. 6d. (for it depended on the number of witnesses called); and therefore it was manifest that poor Langford must sometimes have been sorely pinched.

"I shall never forget," says Mr. Williams, "an incident that occurred one day when I was sitting next to him at the Middlesex Sessions. He was bemoaning the fact that the clerk had not brought him his 'soup,' and he paused in the middle of the conversation to write something on a piece of blotting-paper, which he handed to me with a vacant smile. I read as follows :

" As pants the hart for liquid streams,
When weary of the chase ;
So pants my heart for One Three Six
In this disgusting place."

No lawyer, however, was more sarcastic in regard to his profession than the notable Devonshire advocate, known for many years as Counsellor Carter, who possessed the bitterest of tongues, and did not seem to care one iota to whom he addressed his remarks. Even judges sought to avoid his outbursts. An example of Carter's unconventional language is afforded by an incident which occurred on one occasion when he was defending a man at the assizes on a charge of obtaining money by false pretences. "False pretences!" said Carter, with fine scorn. "Why, we all make them every day! Barristers and solicitors and judges—the whole lot of us. Talk of the purity of the judicial ermine!" Here he pointed derisively at the learned judge who sat cowering on the Bench. "Why, it's only rabbit-skin!"

The reference to Baron Martin, a famous English jurist of the old school, recalls a story which shows that

although bygone judges were somewhat brutal at times, there were exceptions. As a matter of fact, Baron Martin's leniency and sense of fun often placed him at the mercy of the very men he was trying. He was once about to sentence an old offender charged with a petty theft.

"Look," said the Baron, with an assumption of severity: "I hardly know what to do, but you can take six months."

"I can't take that, my lord; it's too much," said the prisoner, respectfully but firmly. "I can't take it. Your lordship sees I didn't steal very much, after all."

The Baron indulged in one of his low, chuckling laughs before replying:—

"Well, that's verra true; ye didn't steal much," he said. "Well, then, ye can tak' four months. Will that do—four months?"

"Nay, my lord, but I can't take that either," was the reply.

"Then tak' three."

"That's nearer the mark, my lord," the prisoner said, approvingly. "But I'd rather you made it two, if you will be so kind."

"Verra well, then, tak' two," said the judge, with the air of one who is pleased to have done the right thing at last. "And mind, don't come again. If you do I'll give ye—well, it all depends!"

This calls to mind the extreme kindness and leniency of a past well-known Metropolitan magistrate, Mr. Flowers, who, on account of addresses such as the following to prisoners, was, it is scarcely necessary to say, extremely popular with wrong-doers. His address usually ran as follows, pronounced by the dear old man with a friendly smile and slightly through his nose: "Well, prisoner, your conduct has been very bad; if I did my duty I should give you imprisonment with hard labour; but perhaps," this with a tender, wistful smile, "you are really sorry for having blackened your wife's eye and knocked out her front teeth; perhaps you mean to be a teetotaler in

future. Yes. I am sure you are penitent, and will turn over a new leaf"—this in response to the prisoner's profound emotion and speechless inclination of his head—"perhaps you would rather be fined than go to prison." Emphatic acquiescence on the part of Mr. M.—in the dock. "Well, I'll fine you five shillings this time." Retreat of Mr. M—through a line of grinning policemen, and a remark from the Clerk, more in sorrow than in anger: "This is his tenth appearance at this Court." And the magistrate's reply, while he beamed through his spectacles: "Dear me, I am afraid I'm too lenient; I thought I knew the name of M—somehow."

Baron Martin was a great lover of horses, and a frequent visitor to the various race meetings; but he had the greatest horror of "prophets"; that particular class of sharpers who frequent race-courses and pretend that they have received information from the highest quarters which enables them to predict with absolute certainty the horse which is to win any particular race.

On one occasion after the Baron had become deaf, he was trying a racing case.

One of the counsel engaged on it was named Stammers, a solemn, formal, sententious personage, who seldom made a speech without quoting passages from Scripture. In addressing the jury, he was about to pursue his old habit, and got as far as "as the prophet says," when the judge interposed.

"Don't trouble the jury, Mr. Stammers, about the prophets; there is not one of them who would not sell his father for sixpenny worth of halfpence."

"But, my lord," said Stammers, in a subdued tone. "I was about to quote from the prophet Jeremiah."

"Don't tell me," said the Baron. "I have no doubt your friend Mr. Myers is just as bad as the rest of them."

Richard Bethell (Lord Westbury) was undoubtedly one of the greatest lawyers and Lord Chancellors of the nineteenth century. But he was a bitter wit. Indeed, his tongue may be said to have been his ruin. For when, in 1865, serious charges were brought against him of

“ laxity of practice and want of caution ” in the administration of his patronage as Lord Chancellor, although most people thought that his culpability was one of carelessness merely, he had made himself so unpopular by the cutting and caustic remarks in which he had been wont to indulge in at the expense of others, that many of the greatest admirers of his talents were not anxious to come to his rescue against the hostile action of his foes. He had what an old author called “ a filed tongue ”; but his smoothest phrase, like the polished stone from the sling of David, did terrible execution.

He began life as a Tory ; and, when he was expelled from the Conservative Club for his heretical views on Free Trade, and was making his defence before the Committee, he was told by an old fox-hunting squire, at the further end of the room, to “ speak up.” “ I should have thought,” said Bethell, in his sweetest, suavest way ; that “ man-millinery ” style of his, as Sir Thomas Wilde (afterwards Lord Truro) called it, “ I should have thought that the hon. gentleman’s ears were long enough to catch my articulate utterances, even at that distance.”

Among the earliest stories told of Bethell is the following. His conspicuous ability at the Bar had commended him to Vice-Chancellor Sir Lancelot Shadwell, with whom he became a great favourite—indeed, whose decisions, it was said, the brilliant advocate irresistibly influenced—apropos of which this conundrum became current in legal circles : “ Why is Shadwell like King Jeroboam ? ” Answer : “ Because he has set up an idol in Bethell.”

Concerning the appointment of Bethell to the Lord Chancellorship in 1861, and his entrance to the Upper House, the following story is told.

For certain reasons Westbury had no great affection for his son, whom, however, he sent for upon his acceptance of the Chancellorship.

“ Richard,” he said, “ I have sent for you to say that Lord Campbell died last night, and that I have accepted the Lord Chancellorship. I shall, of course, be made a peer, and at my death that peerage must devolve upon

you. I have sent for you to tell you this, and, further, that when at my death that peerage does so devolve, it will pass to the greatest scoundrel in Her Majesty's dominions."

The son was not angry.

"Well, sir, considering that you'll be dead, very likely it will," was all he said.

A story which admirably illustrates Westbury's peculiar affected drawl of the voice, is told in connection with his fondness for broiled bones hot and highly peppered. One night, supping at home, the dish was not to his taste, and the poor cook was sent for to be reprimanded. In his most dulcet tones he admonished her :

"Woo-man, you have no ideeah of a dev-ille."

That even a Lord Chancellor's practice does not always come up to his precept, is illustrated by a quaint anecdote told of Lord Cairns, who on one occasion intimated in some case that if a tradesman left goods without waiting to be paid, and afterwards failed to get his money, he had only himself to thank.

A short time afterwards, the Lord Chancellor paid a visit to certain hosier's in Oxford Street, who had read this dictum on trading and had resolved to act accordingly. Lord Cairns ordered some shirts which, when made, were to be sent to his house in South Kensington.

Accordingly, when they were ready, the hosier sent his man with them, and bearing in mind his lordship's own excellent advice, told him to wait for the money.

The man, accordingly, on delivering the shirts, presented the bill to the footman, requesting that it might be paid. The footman at first seemed disposed to shut the door in his face, but on the messenger declaring that if payment was not made his orders were to take the parcel back, the man departed to consult the butler, who appeared on the scene, bursting with indignation, and ordered the messenger to be off.

The man remained obdurate, the butler departed in hot haste for the steward, or groom of the chambers, who raged even more furiously, but to no purpose—the

man still stood firm. Finally this official departed, and after a short interval his lordship himself appeared and hectored the man to such a tune that he finally capitulated, and left the parcel, minus the account.

On hearing the man's report on what had happened, the hosier wrote a most respectful letter to Lord Cairns explaining that but for his own advice on the subject he should not have thought of requesting payment at the door ; that, moreover, he really supposed (which was true) that he preferred to have this system adopted in his household ; concluding with a hope that, under the circumstances, he would not be offended.

" However," adds the disillusioned hosier, " his lordship took no notice of my letter, and actually kept me waiting two years for the money ! "

This recalls the fact that Commissioner Kerr's pet theory against giving credit once furnished occasion for a most amusing incident. One day a plaintiff was seeking to recover thirteen pounds odd for milk supplied. The Commissioner said to the milkman :

" I thought everyone paid for his pennyworth of milk each day as it was delivered."

" Oh no, they don't, your honour," replied the milkman. " I serve your honour's house with milk, and they have not paid me for two months."

" Well," said the Commissioner, " you will not supply me any more ; you will be watering my milk to make up for this thirteen pounds you are going to lose."

Lord Tenterden, though a great lawyer, was by no means a humourist, but an involuntary witticism of his may be recalled, which, though tolerably well-known, will yet bear repetition. He had contracted such a habit of keeping himself and everyone else to the precise matter in hand, that once during a circuit dinner, having asked a county magistrate if he would take some venison, and receiving what he deemed to be an evasive reply : " Thank you, my lord, I am going to take boiled chicken," he sharply retorted, " That is no answer to my question. I ask you again if you will take venison, and will trouble

you to say 'Yes' or 'No' without further prevarication.'

"The law is a ass," wrote Dickens in "Nicholas Nickleby," and for centuries writers have been telling the public that the people who trust their affairs to lawyers are also asses. Gallons of ink have been spilt in warning folk against going to law, and even legal luminaries themselves have indulged at times in sarcastic humour at the expense of their profession.

Judge Chitty, for instance, was the authority for the following story illustrating the manner in which clients' interests are "protected" at times.

A wealthy attorney, on the marriage of his son, gave him £500, and handed him over a Chancery suit, with some common-law actions, telling him he might consider himself a lucky dog to be so handsomely provided for.

A couple of years after, the son came back and asked his father for more business.

"More business, you rascal!" exclaimed the irritated parent, "why I gave you that capital Chancery suit—alone a princely income to any lawyer, to say nothing of the several common-law actions. What more can you want?"

"Yes, sir," replied the youth, "but that was two years ago; and I have, some months since, wound up the suit, and made quite a friend of my client, who is delighted with the way in which I managed to put him in possession of his estate."

"Then what a silly, improvident fool you must be!" shouted his father, indignantly. "Why, that suit was in my office a quarter of a century, and would be there still if I had kept it myself. What's the use of putting business in your way? I shall do nothing more for you."

A very clever and exceedingly witty Lord of Appeal was Lord Macnaghten, who died in February, 1913. He had been a law lord for twenty-six years when he died, having been appointed on January 25th, 1887, and on the death of Mr. Justice Grantham in November

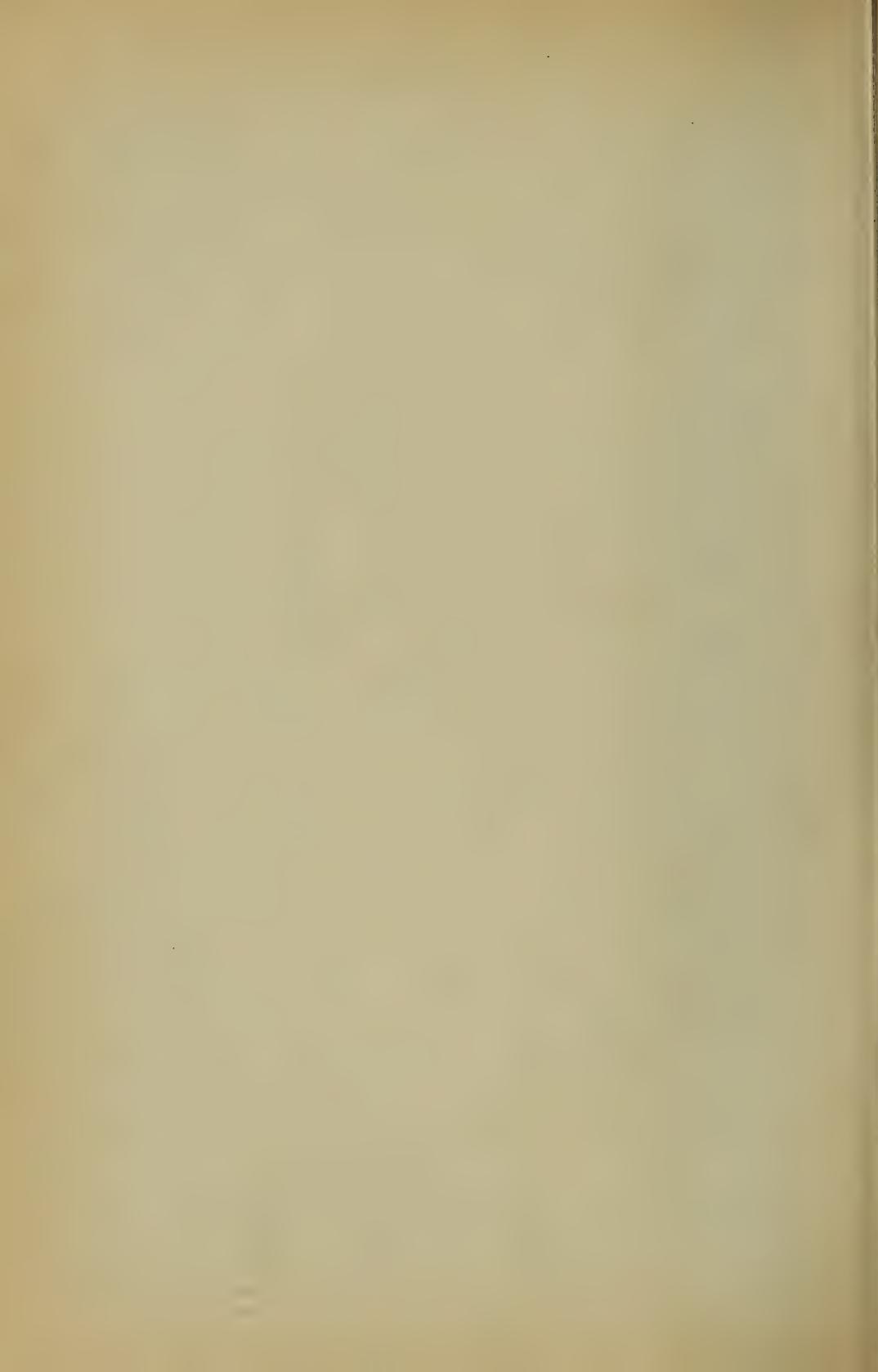
1911, he became Father of the Bench. His political speeches were usually characterised by humour, while according to one who knew him, "he took extraordinary care in the composition of his written and printed judgments, polishing them and repolishing them, and ever suppressing a humorous sally if it did not finally commend itself to his taste." Admirable restraint indeed.

Macnaghten's judgments, however, said a writer in the *Daily Telegraph* at the time of his lordship's death, often contained felicitous and humorous phrases. A firm of brewers named Thompson had a brewery at Stone, in Staffordshire, which had been established one hundred years or more. Their liquor had thus acquired a reputation as Stone Ale. A Mr. Montgomery influenced, as he said, by the peculiar excellence of the water, also established a brewery which he called "Stone Brewery." Then naturally he went on to call his beers "Stone Ales." Thus came proceedings by the Thompsons to restrain the use of the name. "It is not the first time," remarked Lord Macnaghten, "that water has got an honest man into trouble and then failed him at a pinch."

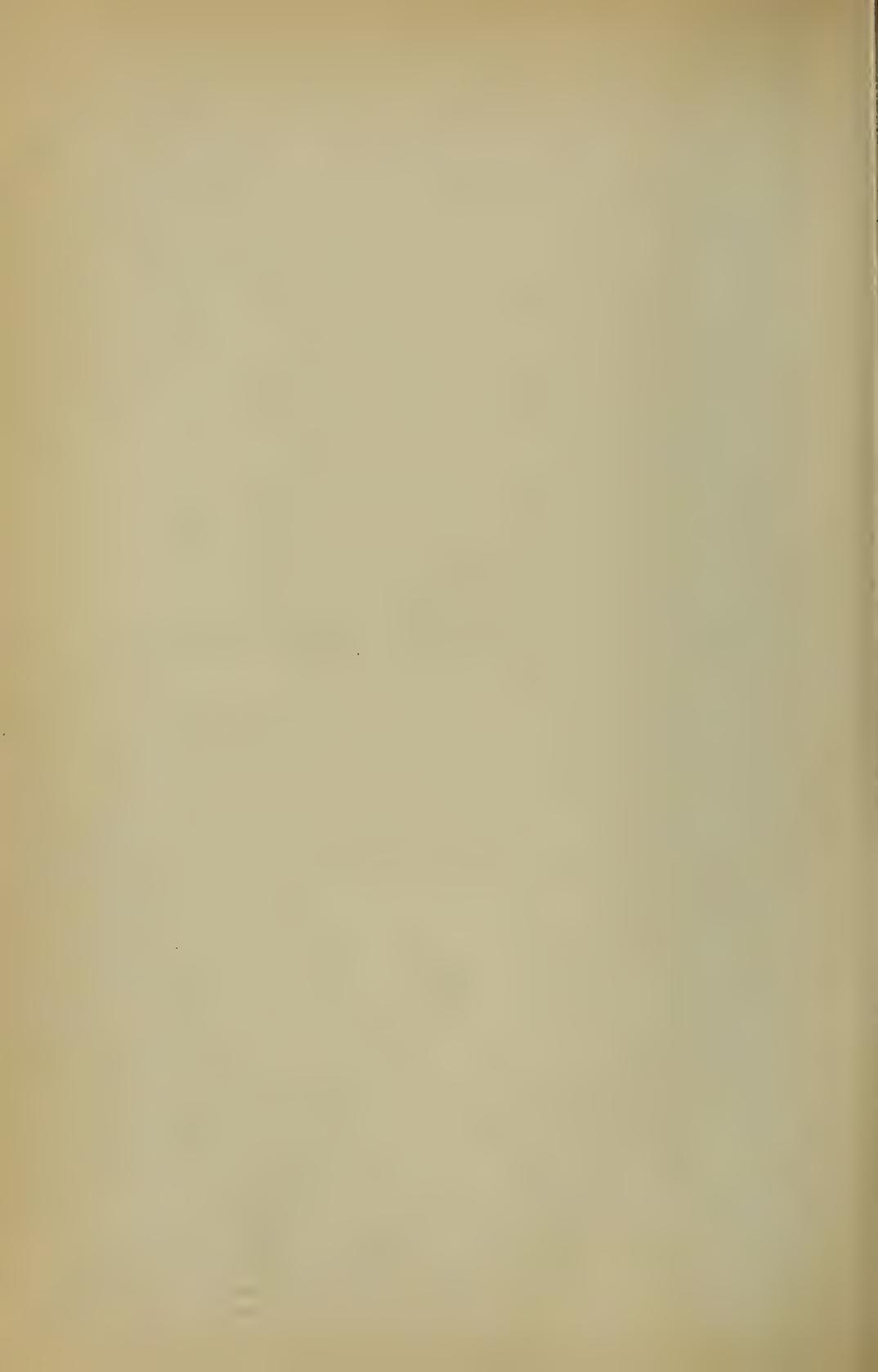
Observing that the Courts below could not be persuaded that Montgomery was attracted by the chemical virtue of the water, he continued: "They thought he went there simply with the object of stealing the plaintiff's trade, and in the hope of reaping where he had not sown." In answer to the argument that the Thompsons had no monopoly in the name of Stone, he said: "It would have been impossible for him to have called his ales 'Stone Ales,' and to have distinguished his ales from those of the plaintiffs. Any attempt to distinguish the two, even if honestly meant, would have been perfectly idle. Thirsty folk want beer, not explanations."

Still happier was a phrase in an appeal of *Kehoe v. Lord Lansowne*. A number of huts or cottages had been erected for the accommodation of evicted tenants on land let to the Bishop as a residence for the parish

priest. Such a use of the land was not warranted by the tenancy, yet it was contended that "Lord Lansdowne must be content to have it thrown upon his hands burdened with twenty-one cottages and their inhabitants. He let an agricultural holding ; he must take back a congested district."



HUMOURISTS OF THE SCOTTISH BAR



CHAPTER V

HUMOURISTS OF THE SCOTTISH BAR.

“ Much may be made of a Scotchman if he be caught young.”
—*Samuel Johnson.*

WITHOUT doubt, one of the most remarkable chapters in the history of the Scottish Bar is the story of the Erskine brothers—Henry Erskine, the second son of the tenth Earl of Buchan, and his younger brother, Thomas, who ultimately became Lord Erskine and Chancellor to the Prince of Wales, an office which had lain dormant since the time of James I., but which was revived in Erskine’s favour in 1802. Their wonderfully brilliant, meteoric careers, their unique legal skill, eloquence and wit, make them stand out sharp and distinct from all their contemporaries. Judging from the records of legal chroniclers of the time, opinions were fairly evenly divided as to their respective abilities. Some of Lord Erskine’s speeches, however, are among the finest specimens of forensic skill.

Lord Erskine’s own account of the circumstances to which he owed his celebrity at the English Bar was characteristic of the man. “ I had scarcely a shilling in my pocket,” he once said, “ when I had my first retainer. It was sent me by a Captain Baillie, of the Navy, who held an office at the Board of Greenwich Hospital ; and I was to show cause in the Michaelmas term against a rule that had been obtained against him, in the preceding term, calling on him to show cause why a criminal information for a libel reflecting on Lord Sandwich’s conduct, as governor of that charity, should not be filed against him, I had met, during the Long Vacation,

this Captain Baillie at a friend's table ; and after dinner expressed myself with some warmth, probably with some eloquence, on the corruption of Lord Sandwich, as First Lord of the Admiralty ; and then diverted to the scandalous practices imputed to him, with regard to Greenwich Hospital. Baillie nudged the person sitting next to him, and asked who I was.

“ Being told that I had been just called to the Bar, and had formerly been in the Navy, Baillie exclaimed :

“ ‘ Then, by G—— ! I’ll have him for one of my counsel.’ I trudged down to Westminster Hall when I got the brief, and being the junior of five who would be heard before me, never dreamt that the court would hear me at all. The argument came on, Dunning, Bearcroft, Wallace, Bower, Hargrave, were all heard at considerable length, and I was to follow. Hargrave was long-winded and tired the court. This protracted the cause so long, that when he had finished, Lord Mansfield said that the remaining counsel should be heard next morning.

“ This was exactly what I wished. I had the whole night to arrange in my chambers what I had to say the next morning ; and I took the court with their faculties awake and freshened, succeeded quite to my own satisfaction (sometimes the surest proof that you have satisfied others), and as I marched along the hall, after the rising of the judges, the attorneys flocked round me with their retainers.”

The annals of law do not record a triumph more sudden, or better earned. Lord Mansfield frequently checked the young speaker when, wandering from the immediate matter at issue, he hurled the weapons of his eloquence at Lord Sandwich himself. “ Lord Sandwich is not before the court,” observed the Chief Justice in a tone of grave reproof. “ Not before the court ? Then, my lord, I will drag him before the court,” replied the intrepid advocate. It has been reported that, when he left the court, Erskine had thirty briefs pressed on him by admiring attorneys, who had witnessed his brilliant display.

This was in 1778, when Erskine was twenty-eight years of age, and after he had tried successively the navy, army, and the church, and for the next forty-five years, until his death, Erskine was regarded as the brightest of legal luminaries. His fame as an advocate was immense. Indeed, Lord Campbell called him the greatest in ancient or modern times.

Undoubtedly, much of Erskine's popularity and success, however, was due to his charm of voice and manner and personal magnetism.

Boswell mentions meeting him in his youth at Sir Archibald Macdonald's. He describes him as "a young officer in the regiments of the Scots Royals, who talked with a vivacity, fluency, and precision so uncommon that he attracted particular attention." In the course of the conversation, Erskine boasted that when at Minorca he had not only read prayers, but preached two sermons to the regiment. It was, indeed, always a favourite boast of his, to have been a sailor, a soldier, a parson, and a lawyer. A propos of Erskine's varied career, the following story might be told.

Prominent amongst eighteenth-century lawyers celebrated for their humour, was the well-known Jack Lee, or "Honest Jack Lee," as he came to be called by the fraternity of the bar. He was M.P. for Higham Ferrers, Solicitor-General in 1782 in the Rockingham Ministry, and Attorney-General in the Coalition Ministry, and he was one of the counsel engaged in the court-martial on Admiral Keppel in 1779, and defended him conjointly with Erskine.

Being a Yorkshireman, Lee's accent was so strongly provincial that his pronunciation sounded very curious at times to southern ears. For instance, whenever he had to employ the oft-recurring phrase, "showing cause," it sounded something like "shoeing cows." One day Erskine took the opportunity to show off his humour, by informing the learned counsel, that in the south we "shoe horses, not cows."

Lee, however, had his revenge on Erskine, when the latter on a later occasion tried to take advantage of his

peculiar mannerisms when addressing the jury. Erskine's gift of mimicry was almost proverbial, and in a certain case he availed himself of this talent by imitating Lee's well-known manner of folding his arms across his breast and throwing back his spectacles, and his north-country accent. The effect of Lee's address which followed was, of course, entirely destroyed by this clever but questionable proceeding ; the Court, however, was convulsed with laughter, till Lee rose at the conclusion of Erskine's speech and turned the tables against him.

" We all know," he said, " that before joining our honourable profession, the learned counsel tried his fortune at sea, and, failing there, offered himself to the army ; thence he proceeded to the pulpit, for which he likewise proved unfitted, but I did not suppose, till now, that his versatility would induce him to prepare for a career of mountebank at Bartholomew Fair."

Nevertheless, although at times they indulged in such personalities, both Lee and Erskine became fast friends.

Erskine owed his title and official dignity to his faithful attachment to Mr. Fox during the critical period of the French Revolution. To the King, Erskine was personally obnoxious from his having undertaken the defence of Tom Paine, the notorious " Radical demagogue." When the arrangements for the " Talents " administration were in the course of settlement, Fox submitted to the King a list of such persons as his party considered eligible for the Chancellorship. At the head of this list was Erskine's name, placed there, not under any expectation that the King would consent to his appointment, but merely as a mark of esteem and regard. The King, however, did not make the anticipated objection. He merely observed, " Well, if Mr. Erskine must be Chancellor, remember he is your Chancellor and not mine " ; and Mr. Erskine accordingly became Chancellor, much to his own astonishment and that of his friends. The surprise which they manifested arose simply from the knowledge of how much he was disliked by the King.

As an example of Lord Erskine's humour, one might

mention his conversation with Mr. Lamb. Erskine had remarked how much habit and the practice of speaking gave a man confidence in addressing the court. "I protest I don't find it so," said Mr. Lamb, "for though I've been a good many years at the Bar, and have had my share of business, I don't find my confidence increase; indeed, the contrary is rather my case." "Why," replied Erskine, "it's nothing wonderful that a Lamb should grow sheepish."

Erskine was colonel of the volunteer corps called "The Law Association." Someone, wishing to quiz him, told him that his corps were much inferior to the Excise Volunteers, then notoriously the worst in London. "So they ought to be," good-humouredly observed Erskine, "seeing that the excise people are all Cæsars (seizers)."

Very effective was Erskine's sharp question put quickly to the witness who, in an action for payment of a tailor's bill, swore that a certain dress-coat was badly made—one of the sleeves being longer than the other. "You will," said Erskine slowly, having risen to cross-examine, "swear—that one of the sleeves was—longer—than the other?"

Witness: "I do swear it."

Erskine (quickly and with a flash of indignation): "Then, sir, I am to understand that you positively deny that one of the sleeves was shorter than the other?"

Startled into a self-contradiction by the suddenness and impetuosity of this thrust, the witness said:

"I do deny it."

Erskine (raising his voice as the tumultuous laughter died away): "Thank you, sir; I don't want to trouble you with another question."

A case being laid before Erskine by his old friend the Marquis of Queensbury—better known as "Old Q."—as to whether he could sue a tradesman for breach of contract about the painting of his house, and, the evidence being totally insufficient to support the case, Erskine wrote thus:

"I am of opinion that this action will not lie, unless the witnesses do."

Lord Erskine's *bon mots*, however, are proverbial, many of them being extensively quoted. The following examples, however, may be new to some readers. One day, dining at the Lord Chancellor's, where he met the celebrated navigator, Captain Parry, Lord Erskine asked him on what diet he and his crew subsisted when frozen up in the Polar seas.

"Ah," replied the Captain, "we had no resource but to live on seals."

"And very good living too," replied Lord Erskine, and (reflecting regretfully on the lucrative office he had had to resign) he added, "that is, if you keep them long enough."

There was an occasion, when Lord Erskine had succeeded in a cause in which his clients were the directors of a large coal company, that they gave a great dinner to celebrate their triumph, making Erskine the hero of the occasion. When, after dinner, he was called on for a toast, he gave the following—"Sink your pits, blast your mines, dam your rivers."

And then there is his reply to Dr. Parr, who told Lord Erskine that he would write his epitaph.

"Ah," replied the legal wit, "such a prospect is enough to make one commit suicide."

Just one more example of Erskine's wit. He once wrote in a French lady's album, the following impromptu :

"The French have taste in all they do,
Which we are quite without;
For Nature which has given them *gout*,
Has only given us—*gout*."

Many of the stories attributed to Lord Erskine, however, really concern his brother, Henry, notably the following :

On the formation of what was called the Coalition Ministry, Mr. Erskine was appointed to succeed Mr. Henry Dundas (afterwards Lord Melville), in the important situation of Lord Advocate of Scotland. On

the morning of receiving his appointment, he had an interview with Mr. Dundas in the Outer-Parliament House ; when, observing that the ex-Premier had already resumed the ordinary stuff gown which all practitioners at the Scottish Bar, except the Lord Advocate and Solicitor-General for the time being, are in the custom of wearing, he gaily said, that “ he must leave off talking, and go and order his silk gown to be made.” “ It is hardly worth while,” said Mr. Dundas dryly, “ for the time you will want it. You had better borrow mine.” Mr. Erskine, with admirable promptness, replied : “ From the readiness, Mr. Dundas, with which you make the offer, I have no doubt that yours is a gown made to fit any party ; but, however short my time in office may be, it shall never be said of Henry Erskine that he adopted the abandoned habits of his predecessor.”

Like Lord Erskine, his brother Henry had a high reputation in society for that wit and hilarity which render social converse so delightful.

Soon after being called to the Bar, Mr. Erskine went a circuit in the train of the celebrated Lord Kaimes. His lordship, though a man of very enlarged mind, fell sometimes into the sin of being pitifully parsimonious ; and on no occasion was he more apt to be so, than when he travelled and feasted at the public expense, and there was a possibility of saving something for himself out of the sum regularly allotted in Scotland to Judges in their official county excursions.

On the rising of the court one day, Lord Kaimes invited Mr. Erskine, with some other young barristers, to dine with him. When the cloth was removed, the company found that port alone was to be the order of the day. Hint after hint was given to his lordship, that since the public were to pay, something better might be afforded, but his lordship passed over every allusion of the kind unnoticed ; and when at last the war oblique seemed verging towards a more direct order of hostilities, he turned towards Mr. Erskine, and, with a view of shifting the subject, asked him very gravely, “ What could have

become of the Dutch ? ” who had a short time before been drubbed off the Dogger Bank by Admiral Parker. No shift could have been more unfortunate for his lordship. Mr. Erskine, with a smile, said, “ I suppose, my lord, they are like us, confined to Port.” Lord Kaimes, who, with all his niggardliness, had a mind sensibly alive to the sallies of genius, immediately ordered a supply of the best claret in the house to be placed on the table.

Some parts of the north-east coast of Scotland are famous for a peculiar sort of small dried haddocks, called speldings, which are sent in large quantities to the southern counties, and form a prominent article of luxury at all the country fairs. The best idea that an English reader can form of this luxury is to suppose himself chewing a strap of leather. The late eccentric Hugo Arnot, author of “ The History of Edinburgh,” who was in his person remarkably meagre, happening one day to come into the Parliament House exercising his jaws on one of these delicacies, Mr. Erskine, stepping up to him, said, “ I wish you much joy, Mr. Arnot ; I never saw you look so like your meat before.”

The same gentleman, Mr. Arnot, was remarkable for the looseness of his opinions with respect to futurity ; while Mr. Erskine was, on the contrary, as much distinguished for a deep sense of revealed religion and an attention to every Christian ordinance. One Sunday afternoon Mr. A. happened to be on horseback, when he met Mr. Erskine returning from divine service. “ Where have you been, Harry ? ” said the historian. “ What has a man of your sense and education to do among a parcel of old women ? What did you expect to hear ? Where was your text ? ” “ Our text,” said Mr. Erskine, “ was in the sixth chapter of the Revelations : ‘ And I looked, and beheld a pale horse, and his name that sat on him was Death, and Hell followed with him.’ ” Mr. Arnot, who was actually mounted on a pale-coloured horse, felt the sarcasm in all its force, and, muttering a hasty execration, rode off.

It was Henry Erskine who invented the following

couplet, à propos of Mr. Justice Amhurst, who was remarkable for his lank and sallow physiognomy :

“ Judge Amhurst, with his lanthorn jaws,
Throws light upon the English laws.”

When on circuit, Erskine was once asked by the landlord of the inn at which he had put up how he had slept. “ Well,” he replied, “ union is strength—a fact of which your inmates seem to be unaware ; for, had the fleas been unanimous last night they might have pushed me out of bed.” “ Fleas ! ” said the landlord, in astonishment, “ I was not aware that I had a single one in the house.” “ I don’t believe you have,” retorted Erskine, “ they are all married, and have uncommonly large families.”

Erskine on another occasion met a verbose friend, and perceiving that his ankle was tied up with a silk handkerchief, asked what had happened. “ Why, my dear sir,” came the answer, “ I was taking a romantic ramble in my brother’s grounds, when, coming to a gate, I had to climb over it, by which I came in contact with the first bar, and have grazed the epidermis on my skin, attended with slight extravasation of blood.” “ You may thank your lucky stars,” commented Erskine, “ that your brother’s gate was not as lofty as your style, or you must have broken your neck.”

A witty retort, by the way, was that of Thelwall, who, when on his trial at the Old Bailey for high treason, wrote the following note during the evidence of the prosecution, and sent to his counsel : “ Mr. Erskine, I am determined to plead my cause myself.” Mr. Erskine wrote under it : “ If you do, you’ll be hanged ” ; to which Thelwall immediately returned this reply : “ I’ll be hanged, then, if I do.”

Reference has been made to Lord Erskine’s popularity, and his brother was no less popular. There is a story to the effect that an attorney in a distant part of Scotland, or as he is called there, a writer, representing to an oppressed and needy tacksman, who had applied to him for

advice, the futility of entering into a lawsuit with a wealthy neighbour, having himself no means of defending his cause, received for answer : “ Ye dinna ken what you say, maister ; there’s nae a puir man in Scotland need to want a friend, or fear an enemy, while Harry Erskine lives ! ”

Although not so witty or eloquent perhaps as the Erskine brothers, Lord Young, who was called to the Scotch Bar in 1840, and was first appointed Solicitor-General for Scotland in 1852, had a keen sense of humour, and many are the stories told regarding him.

When he was one of the Lords Ordinary in the Outer House, he had a somewhat heavy roll of business, partly owing to a vacancy on the Bench having been kept open longer than usual. One of his colleagues at the time was Lord Craighill, and the new judge, when at last he was appointed, took the courtesy title of Lord Curriehill. On the appointment being announced, Lord Young gratefully quoted the opening lines of the 121st Psalm :

“ I to the *Hills* will lift mine eyes,
From whence doth come mine aid.”

Once Lord Young and Lord Deas were on circuit together at Glasgow. According to custom, Court was opened with a prayer by a prominent divine. At luncheon afterwards, Lord Young said to a friend who was lunching with the judges : “ Very long prayer that fellow gave us to-day, but, after all, I suppose it quite right that when Deas goes on circuit the attention of the Almighty should be called to the fact.”

A case was once being tried before the Lord Young—“ *Crabbe v. Crabbie.* ”

“ I may explain, my lud,” said the advocate, “ that my client, Crabbe, is a nephew of our opponent Crabbie, but a few years ago he dropped the ‘ i ’ in his name for the sake of euphony.”

“ Ah,” replied Lord Young, “ he has Biblical authority for that—‘ If thy ‘ i ’ offend thee, pluck it out.’ ”

The present Lord Justice General of Scotland (Lord

Dunedin) was, as Mr. Graham Murray, once pleading before Lord Young. At the time Mr. Graham Murray had the largest practice at the Scottish Bar, but was also able to mix freely and late in Edinburgh society. In the course of an argument Mr. Murray, to find a metaphor, made some reference to a ball he had been at the previous night, or rather, the same morning.

"I cannot understand, Solicitor-General," said Lord Young, "how you can burn the candle at both ends."

"Ah," replied Mr. Graham Murray, "I do that to make both ends meet."

Lord Ardwall, one of the Judges of the Court of Session, was a man of large proportions. One day, as Mr. Andrew Jamieson, he was pleading before Lord Young, and the opening counsel interposed with the remark that he was not disposed to disagree with his friend.

"But, my lud," said Mr. Jamieson, "the Lord Advocate and I are not by any means in the same boat."

"No," said Lord Young, "you will require one entirely to yourself."

Lord Young was rather fond of telling the story of the Scottish advocate who had drank rather too freely, and who was called on unexpectedly to plead in a cause in which he had been retained. The lawyer mistook the party for whom he was engaged, and, to the great amazement of the agent who had feed him, and the absolute horror of the poor client who was in court, he delivered a long and fervent speech, directly opposite to the interests he had been called upon to defend. Such was his zeal that no whispered remonstrance, no jostling of the elbow, could stop him. But just as he was about to sit down, the trembling solicitor in a brief note informed him, that he had been pleading for the wrong party. This intimation, which would have disconcerted most men, had a very different effect on the advocate, who, with an air of infinite composure, resumed his oration. "Such, my lords," said he, "is the statement which you will probably hear from my learned brother on the opposite side in this cause. I shall now, therefore, beg leave, in a

few words, to show your lordship how utterly untenable are the principles, and how distorted are the facts, upon which this very specious statement has proceeded." The learned gentleman then went over the whole ground, and did not take his seat until he had completely and energetically refuted the whole of his former pleading.

A somewhat similar incident happened some time ago in the Rolls Court. Mr. A., an eminent counsel, received a brief in Court a short time before the cause was called on, for the purpose of opposing the prayer of a petition. Mr. A., conceiving himself to be the petitioner, spoke very ably in support of the petition, and was followed by a counsel on the same side. The Master of the Rolls then inquired who opposed the petition. Mr. A., having by this time discovered his mistake, rose in much confusion and said, that he really felt much ashamed for a blunder into which he had fallen, but that, instead of supporting the petition, it was his business to have opposed it. The Master of the Rolls, with great good humour, desired him to proceed now on the other side, observing, he knew no counsel who could answer his arguments so well as himself.

Lord Cockburn, the famous Scottish judge, showed pretty wit at times. He is said to have been the author of the following lines concerning Serjeant Sparkie, a hard-headed old Scotchman, who, late in life, married a really very charming young lady :

" When Miss Smith was twenty
She had lovers in plenty ;
When Miss Smith got older
Her lovers got colder ;
Then came Sergeant Spankie,
And Miss Smith said ' Tankie.' "

At a trial in Jedburgh, in which Moncrieff, Jeffrey, and Cockburn were engaged as counsel, while the former was addressing the jury, Jeffrey, with a view to passing time, handed a slip of paper to Cockburn, with the following case for his opinion :

" A legacy was lately left by an old lady to the *Peer* of Aberdeen. As the will was written by the Dowager

herself, and by no means distinguished for correctness of orthography or expression, a dispute has arisen as to the intent of the testator ; and the following claimants have appeared for the legacy—1st, the Earl of Aberdeen ; 2nd, the Commissioners for erecting the pier at Aberdeen ; and, 3rd, the Manager of the Charity Workhouse, who grounds his right that the old lady was in the habit, of pronouncing poor *peer*. To which of the parties does the money belong ? ”

Without much consideration Cockburn penned his opinion. It was in the following amusing terms : “ To none of the three ; but to the Horticultural Society of Scotland for the purpose of promoting the culture of a sort of fruit called, or to be called, the Pear of Aberdeen.”

Lord Cockburn, when at the Bar, defended a prisoner who, notwithstanding his impassioned eloquence, was sentenced to be hanged on the 17th of the following month. After sentence had been pronounced the condemned man reproached the counsel with having failed to get justice done him. “ Never mind that,” said Cockburn, somewhat sharply, and with apparent reference to his guilt, “ have a little patience, and justice will be done you on the 17th.”

Cockburn enjoyed a good story, one of his favourites being against himself. During a holiday he one day, after a long stroll, sat down on a hillside beside a shepherd, and observed that the sheep selected the coldest situation for lying down.

“ Mac,” said he, “ I think if I were a sheep I should certainly have preferred the other side of that hill.” The shepherd answered : “ Ay, my lord ; but if ye had been a sheep ye would have had mair sense.”

He was wont to tell a story, too, of a young advocate who had pleaded his first case, and who, when the judgment was given against his client exclaimed :

“ I am surprised at your lordship’s judgment.”

There was consternation in the Court, and something had to be done to save the young counsel from his unheard-of rashness. The matter was submitted to the Dean of the

Faculty of Advocates, who, when the Court assembled next day, rose and addressed their lordships.

"My young friend," he said, "yesterday committed what may seem an unforgivable indiscretion, but one for which he asked the clemency of the Court. Had he pleaded as long as I have I am sure he would never be surprised at any of your lordship's judgments."

Cockburn once was sitting next to Thesiger during a trial before Campbell, Chief Justice, in which the judge read some French documents, and, being a Scotsman, it attracted a good deal of attention. Cockburn, who was a good French scholar, was much annoyed at the Chief Justice's pronunciation of the French language.

"He is murdering it," said he, "murdering it!"

"No, my dear Cockburn," answered Thesiger, "he is not killing it, only Scotching it."

This recalls the story told of a Scottish advocate who once scored off a judge in a very neat manner. In his pleading he had several times pronounced the word "enow" for "enough."

"Mr. ———," the Judge remarked at length, "in England we sound the 'ough' as 'uff'—'enuff,' not 'enow.'"

"Verra weel, ma lord," continued the self-possessed pleader. "Of this we have said enuff; and I come, ma lord, to the subdivision of the land in dispute. It was apportioned, ma lord, into what in England would be called pluffland—a pluffland being as much land as a pluffman can pluff in one day, and pluffmen——"

But his lordship could not withstand the ready repartee, and burst into a laugh, saying :

"Pray proceed, Mr. ———; we know 'enow' of the Scottish language to understand your arguments."

Another distinguished Scottish advocate, John Clerk, afterwards Lord Eldin, was rather smart with his tongue. In an appeal case before the House of Lords, he concluded his argument with, "That's the hail thing in plain English, ma lorrds." "Plain Scotch you mean, Mr. Clerk," said Lord Eldin. "Nae maitter," returned

the advocate, "in plain commonsense, ma lorrrds, an' that's the same in a' languages, we ken weel eneuch."

On another occasion, after Mr. M'Conachie became Lord Meadowbank, he had a case brought before him in which Clerk was counsel, and his lordship took occasion to suggest to Clerk that in a number of process he might have varied the frequently used expression "also," by "likewise." "I beg your pardon, my lord," said Clerk, "but the terms are not always synonymous." "In every case," retorted Meadowbank, gruffly. Clerk still dissented. "Then cite an instance," demanded the judge. "Well," remarked Clerk, "your lordship's father was a Judge of Session. You are a Judge of Session *also*, but not *likewise*."

John Clerk when away from the Bar would indulge in the flowing bowl with a boon companion. On one occasion he dined freely at the house of a friend in Queen Street, Edinburgh, and wending his way homewards in the morning, he failed to discover his own house in Picardy Place. Observing a housemaid engaged in cleaning a doorstep, he enquired: "My good girl, can you tell me whaur John Clerk lives?" "Awa' wi' your nonsense," said the girl in some astonishment, "you're John Clerk himsel'." "That's true enough, lassie," replied the advocate, "but it's no' John Clerk I'm seeking', it's John Clerk's house."

Clerk had a halt in his gait, and when passing along the street one day, he overheard a lady remark to a friend: "That's John Clerk, the lame lawyer." "No, madam," said he, turning back and looking at the lady, "I am a lame man, but not a lame lawyer."

Lord Kellie, too, was rather fond of conviviality, and once told an amusing story against himself of an incident which occurred when he was presiding over a legal party in Edinburgh. He requested a gentleman present to do something to amuse the company. The gentleman begged to be excused saying he wished to return home. Lord Kellie insisted that he should either sing a song, crack a joke, or tell a story, whereupon the gentleman

thus pressed began. "One day," said he, "a thief, in the course of his rounds, saw the door of a church open. He walked in, and laid his hands upon all he considered worthy of lifting ; but on returning to the door he found it, to his consternation, shut. As the only means of escape left, he resolved to let himself down by the bell-rope. The bell, of course, rang, the people were alarmed, and the thief was taken just as he reached the ground. When they were dragging him away he looked up and addressed the bell as I now address your lordship. 'Had it not been,' he said, 'for your lang tongue and your empty head, I had made my escape.' "

Lord Newton was also as eminent for his tippling qualifications, as he was for his legal ability. He was proposing to buy an estate, and mentioned this to a legal friend, saying at the same time he should like it to be one with a well-sounding name, as he perhaps might take his title from it. "Well, my lord," was the reply, "there is the estate of Drunkie in the market. Buy it, and then ye'll no need to tak' it amiss when fowk say ye're drunk aye."

The Edinburgh lawyers of a past generation, however, were much addicted to hard drinking. On one occasion a well-known advocate engaged with a judge in a tremendous carouse which lasted all night until within a single hour of the time when the Court was to meet next morning. The advocate, in the hurry of his toilet, thrust the pack of cards he had been using over night into the pocket of his gown, and in opening his case to plead before the judge—his boon companion of the previous evening—he, in pulling out his handkerchief, drew out at the same time the fifty-two witnesses of the previous evening's debauch, which fell scattered within the Bar. "Mr. C——," said his judicial associate in guilt, with the utmost coolness, "before you begin your case I think ye had better tak' up your hand."

The name of Sheriff Comrie Thomson, the well-known Scottish Q.C., says Mr. William Harvey, in "Scottish Life and Character," is connected with one or two interest-

ing stories. A merchant tailor who lived in Kirriemuir, ordered from a book agent a complete set of books, which was being published in monthly parts. All went well till the delivery of the last volume, which proved to be about one-half larger than any of the others.

Delivery was refused on the ground that the book was not according to sample and broke the uniformity of the set, and the disputing parties ultimately agreed to submit their difference to the Sheriff. The book-agent stated his case, and Mr. Thomson advised the tailor to take delivery, adding, "Now, Mr. ——, don't be foolish ; if the book is larger they don't propose to charge you anything extra ; and you ought to consider you are having a bargain."

"Well," pleaded the knight of the needle, "I'm a tailor, and if your lordship were to order a coat from me, and I quoted a price, and afterwards delivered the coat a half bigger than you wanted it, you would, I have no doubt, refuse delivery. And then I might say, 'Don't be foolish, Sheriff ; the coat, it's true, is much larger than you want, but the cloth is the same, and I won't make any extra charge. You ought to consider you are having a bargain.'"

Verdict for the tailor with costs.

To Mr. Harvey we are also indebted for some amusing anecdotes concerning such Scottish legal celebrities as Lords Braxfield, Eskgrove and Hermand.

Lord Braxfield was perhaps the coarsest judge who ever donned the ermine. A prisoner was once brought before him on a capital charge. The accused pleaded his own case with singular ingenuity, but the judge drily observed, "Ye're a vera clever chiel, man, but ye wad be nane the waur o' a hangin'."

In a political case which came before him, it was argued in defence that "Christianity was an innovation, and that all great men had been reformers, even our Saviour Himself." "Muckle He made o' that," chuckled Braxfield, in an undertone, "He was hangit."

Two doughty lawyers were one morning pleading

before Lord Braxfield, and as it was evident that they were suffering from the effects of their respective debauches of the previous night, he thus unceremoniously addressed them: "Gentlemen, ye may juist pack up your papers and gang hame. The tane o' ye's rifting punch, and the ither's belching claret, and there'll be nae good got oot o' ye the day."

Eskgrove succeeded Braxfield as head of the Criminal Court. When addressing a jury, if a name could be pronounced in more ways than one he gave them all. Syllable he invariably pronounced syllabill, and the letter "g" when the final letter in any word, was pronounced, and strongly so. He was fond of employing unnecessary adjectives, and the article "a" was generally made into *one*. He described a good man as "one excellent, and worthy, and amiabill, and agreeabill, and very good man." Condemning a tailor to death for murdering a soldier by stabbing him, he addressed him with the words, "And not only did you murder him, whereby he was bereaved of his life, but you did thrust, push, or pierce, or project, or propell the lethal weapon through the belly-band of his regimen-tal breeches, which were his Ma-jes-ty's!"

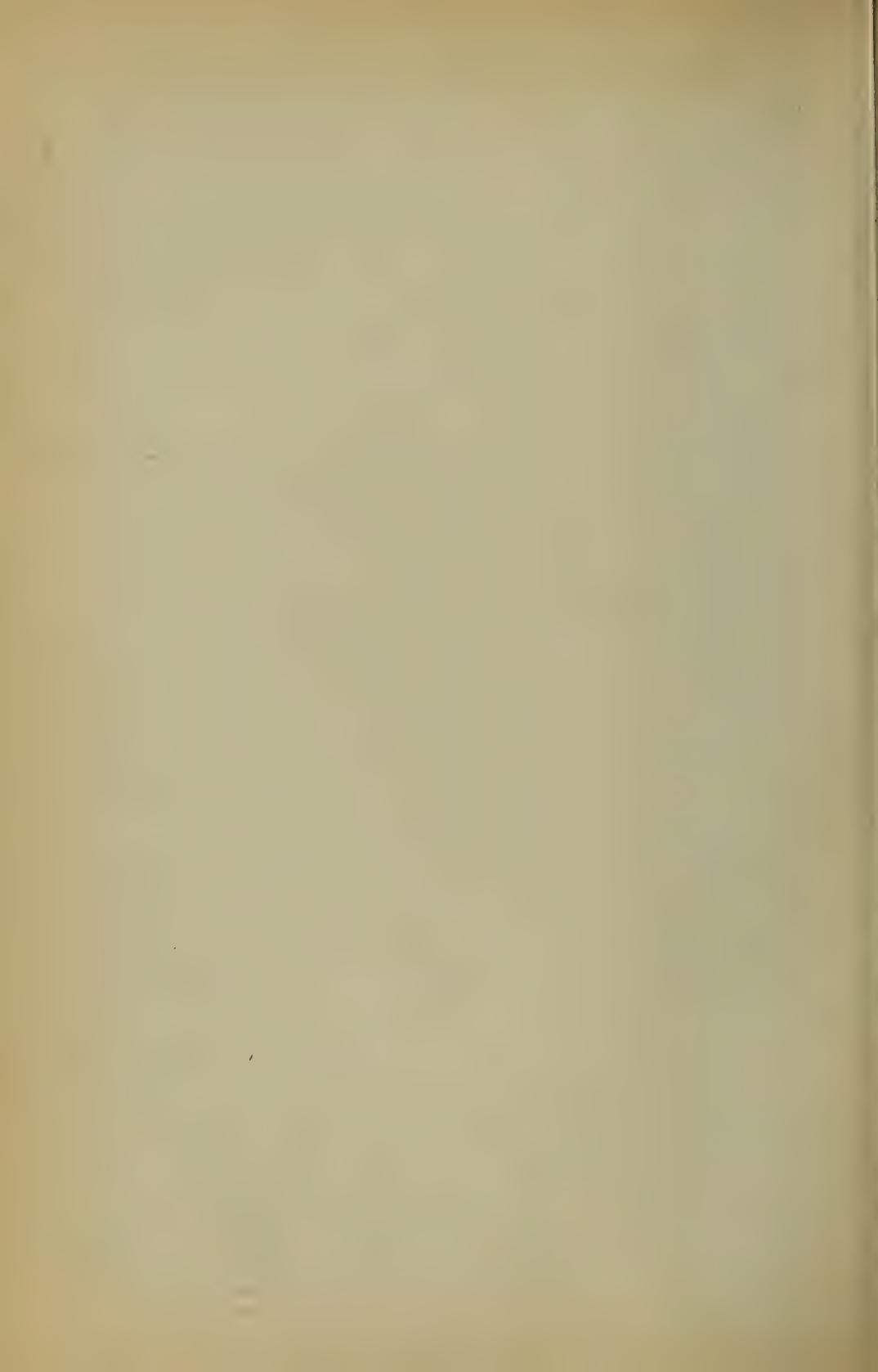
In addressing a jury he frequently proceeded to direct their judgment with the words, "And so, gentlemen, having shown you that the pannell's argument is utterly impossibill, I shall now proceed to show you that it is extremely improbabill."

Lord Hermand was another well-known legal luminary. As an advocate he was eminently successful, and when it was known he was to speak the Court was filled. His eagerness made him froth and splutter, and a story is told to the effect that John Clerk, after pleading a case before Lord Hermand, resumed his seat to await judgment. Hermand took up the case rather warmly, and in the excited, and, as Clerk thought, party views which the Bench took, the saliva from the judge's lips was spurted on the face of the sarcastic advocate, who remarked, "I ha'e often heard o' the dews of Hermon, but never felt them afore this nicht."

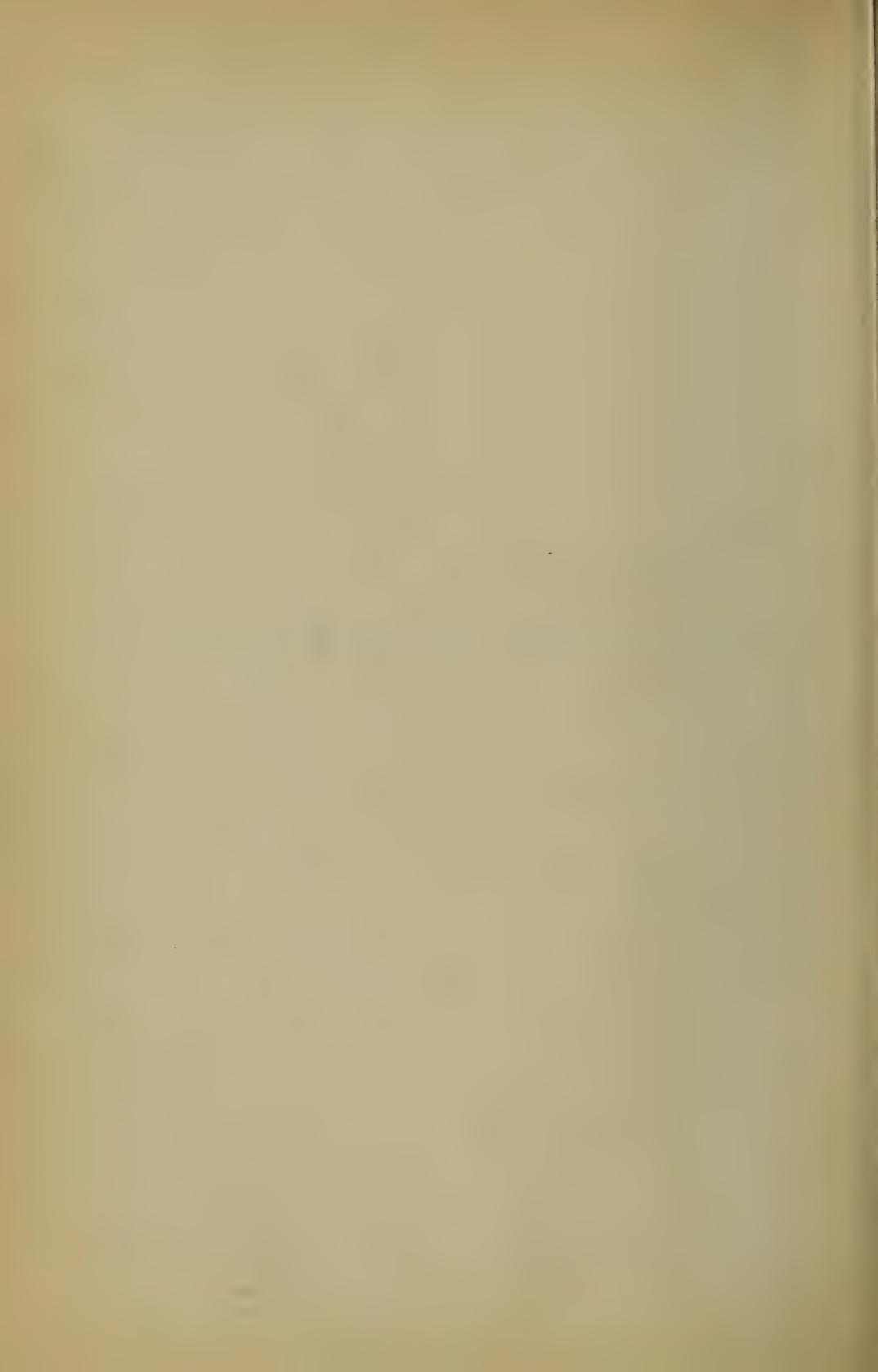
Hermand showed great contempt for statute law, and frequently exclaimed, “A statute! What’s a statute? Words—mere words! And am I to be tied down by words? No, my laards. I go by the law of right reason, my laards. I feel my law here, my laards”—striking his heart. It must have been the recollection of this anecdote that prompted a young solicitor before the Stirling Sheriff Court to explain, when a number of cases were cited bearing on the point at issue, that he was there to get justice, not law.”

Drinking, in Hermand’s estimation, was a virtue; and this was shown when he was engaged in a case where a man was charged with stabbing another in the course of a night’s carousal. “They had been carousing the whole night,” exclaimed Hermand, “and yet he stabbed him! After drinking a whole bottle of rum with him! Good God, my laards, if he will do this when he’s drunk, what will he not do when he’s sober?”

Hermand was very intimate with Lord Eldon, and they were counsel together in Eldon’s first important case in the House of Lords. Eldon wrote out his intended speech, and getting Hermand to dine with him, took out the document, read it, enquired Hermand’s opinion of it, and asked him if it would do. “Do, sir?” exclaimed Hermand, “it is delightful—absolutely delightful! I could listen to it for ever! It is so beautifully written and so beautifully read! But, sir, it is the greatest nonsense! It may do very well for an English Chancellor; but it would disgrace a clerk with us.”



HUMOURISTS OF THE IRISH BAR



CHAPTER VI

HUMOURISTS OF THE IRISH BAR.

"The Irish are a fair people; they never speak well of one another."—*Samuel Johnson.*

SEVENTEEN hundred and seventy-five may be said to have been one of the most significant years in the history of the Emerald Isle, for it was in that year that Daniel O'Connell, "the Liberator," greatest of Irish patriots and orators, was born, within a few weeks of the debut at the Bar of John Philpot Curran, whose mastery of the law, brilliant wit, quickness of repartee, mental acuteness and astonishing felicity of ready language was unparalleled. No two men influenced Irish thought, politics and law more than Curran and O'Connell, and historians have vied with one another in their panegyrics of both.

O'Connell's political achievements and triumphs somewhat overshadowed his successes at the Bar, whereas Curran, although he did some magnificent work in the Irish Parliament for his countrymen, won greatest distinction as a lawyer.

Physically, no two men could have been more different. Daniel O'Connell was framed by nature for the part he had to play in life. Almost six feet high, of burly figure, giant strength, inexhaustible energy, and enormous powers of work, he had a splendid command of nervous language, and a mighty voice that rose high above the uproar of the crowd. A magnificent orator, trenchant, versatile, self-possessed, sincere with all his exaggeration, ready in unstudied and effective retort, richly endowed with a coarse but genuine humour, and ever thoroughly

Irish, he controlled at will the wildest emotions of an Irish mob, and passed with the ease of a master from bursts of passion and outrageous buffoonery to the tenderest pathos. He was master of all the artillery of vituperation, but it should be remembered in his defence that he was assailed all his life, the constant victim of malignity and hatred now difficult to realise. Even the *Times* newspaper stigmatised him as "an unredeemed and unredeemable scoundrel," and asked, "How long shall such a wretch be tolerated among civilised men?"

On the other hand, Curran's brilliant mind was like that of Pope, hidden behind a little figure, and ugly face, his shrill voice being often ridiculed by his opponents. But they seldom scored. A burly counsellor who was once opposed to Curran tried to make capital out of this physical insignificance. "If you go on so, Mr. Curran, I'll put you in my pocket." "Egad! if you do," retorted he, "you'll have more law in your pocket than ever you had in your head."

Curran's notion of industry was somewhat ludicrous. An hour to him was a day to another man. A single glance made him master of the subject; and though imagination could not supply him with facts, still it very often became a successful substitute for authorities. He once said, in serious refutation of what he called the professional calumnies on this subject, that he was quite as laborious as was necessary for any *Nisi Prius* advocate to be; "For," said he, with the utmost simplicity, "I always perused my briefs carefully when I was concerned for the plaintiff; and it was not necessary to do it for the defendant, because, you know, I could pick up facts from the opposite counsel's statement."

Curran was no respecter of persons, and he exercised his wit on great and small alike, with dire results in one case, for he had the misfortune to provoke the enmity of a man whose thirst for revenge was only to be satisfied by the utter ruin of his adversary. In the discussion of a bill of a penal nature, Curran inveighed in strong terms

against the Attorney-General, Fitzgibbon, for sleeping on the Bench when statutes of the most cruel kind were being enacted, and ironically lamented that the slumber of guilt should so nearly resemble the pose of innocence. A challenge from Fitzgibbon was the consequence of this sally ; and the parties having met, were to fire when they chose. “ I never,” said Curran, when relating the circumstances of the duel, “ I never saw anyone whose determination seemed more malignant than Fitzgibbon’s. After I had fired, he took aim at me for at least half a minute, and on its proving ineffectual I could not help exclaiming to him : ‘ It was not your fault, Mr. Attorney ; you were deliberate enough.’ ” The Attorney-General declared his honour satisfied ; and here, at least for a time, the dispute appeared to terminate.

Not here, however, terminated Fitzgibbon’s animosity. Soon afterwards he became Lord Chancellor and a peer of Ireland, by the title of Lord Clare ; and in the former capacity he found an opportunity, by means of his judicial authority, of ungenerously crushing the rising powers and fortunes of his late antagonist. Curran, who was at this time a leader and one of the senior practitioners at the Chancery Bar, soon felt all the force of his rival’s vengeance. The Chancellor is said to have yielded a reluctant attention to every motion he made ; he frequently stopped him in the middle of a speech, questioned his knowledge of law, recommended to him more attention to facts, in short, succeeded not only in crippling all his professional efforts, but actually in leaving him without a client.

Curran, indeed, appeared as usual in the three other Courts (of the “ Four Courts ” at Dublin) ; but he had been already stripped of his most profitable practice, and as his expenses nearly kept pace with his gains, he was almost left a beggar, for all hopes of the wealth and honours of the long-robe were now denied him. The memory of this persecution embittered the last moments of Curran’s existence, and he could never even allude to it without evincing a just and excusable indignation. In

a letter which he addressed to a friend, twenty years after, he says :

“ I made no compromise with power ; I had the merit of provoking and despising the personal malice of every man in Ireland who was the known enemy of the country. Without the walls of the court of justice my character was pursued with the most persevering slander ; and within those walls, though I was too strong to be beaten down by any judicial malignity, it was not so with my clients, and my consequent losses in professional income have never been estimated at less, as you must have often heard, than £30,000.”

The incidents attendant on this deadly disagreement were at times ludicrous in the extreme. One day, when it was known that Curran was to make an elaborate argument in Chancery, Lord Clare brought a large Newfoundland dog upon the Bench with him ; and during the progress of the argument he lent his ear much more to the dog than to the barrister. At last the Chancellor seemed to cast aside all regard for decency ; he turned himself quite aside, in the most material part of the argument, and began, in full Court, to fondle the animal. Curran stopped short. “ Go on, go on, Curran ? ” cried Lord Clare. “ Oh ! ” replied Curran, “ I beg a thousand pardons, my lord ; I really took it for granted that your lordship was employed in consultation.”

Even as a young lawyer Curran was distinguished for his unbridled tongue, even when addressing judges. Soon after he had been called to the Bar, on some statement of Judge Robinson’s, the young counsel observed that “ he had never met the law as laid down by his lordship in any book in his library.” “ That may be, sir,” said the judge ; “ but I suspect that your library is very small.” Mr. Curran replied : “ I find it more instructive, my lord, to study good works than to compose bad ones.* My books may be few, but the title-pages give me the writers’

* Judge Robinson was the author of many stupid, slavish, and scurrilous political pamphlets ; and, by his demerits, raised to the eminence which he thus disgraced.—LORD BROUGHAM.

names, and my shelf is not disgraced by any such rank absurdities that their very authors are ashamed to own them." "Sir," said the judge, "you are forgetting the respect which you owe to the dignity of the judicial character." "Dignity!" exclaimed Mr. Curran; "My lord, upon that point I shall cite you a case from a book of some authority, with which you are, perhaps, not unacquainted." He then briefly recited the story of Strap, in "Roderick Random," who, having stripped off his coat to fight, entrusted it to a bystander. When the battle was over, and he was well beaten, he turned to resume it; but the man had carried it off. Mr. Curran thus applied the tale: "So, my lord, when the person entrusted with the dignity of the judgment-seat lays it aside for a moment to enter into a disgraceful personal contest, it is in vain, when he had been worsted in the encounter, that he seeks to resume it—it is in vain that he tries to shelter himself behind an authority which he had abandoned." "If you say another word I'll commit you," replied the angry judge; to which Mr. Curran retorted: "If your lordship shall do so, we shall both of us have the consolation of reflecting that I am not the worst thing your lordship has committed.

When, on one of the state trials, Curran was addressing the jury, with his usual animation, the judge shook his head at one of the advocate's arguments. Curran instantly made oratorical capital out of the action. "I see, gentlemen," he said, "I see the motion of his lordship's head; common observers might imagine that implied a difference of opinion, but they would be mistaken, it is merely accidental. Believe me, gentlemen, if you remain here many days, you will yourselves perceive that when his lordship shakes his head—there's nothing in it."

It was when Curran was defending some of the State prisoners that Lord Carleton told him that if he was not careful he would lose his gown as a King's counsel. "Well, my lord," replied Curran, "his Majesty may take the silk, but he must leave the stuff behind."

Another judge, whose wig had become awry, having realised that laughter in the court was caused by him, said : " Mr. Curran, do you see anything ridiculous in this wig ? " " Nothing, but the head," instantly retorted the wit.

On another occasion, Curran having made frequent use of the word " nothing " in an address, was interrupted by the judge, who, jokingly drawing attention to this fact, asked for a definition of nothing. " Nothing, my lord," instantly replied Curran, " in my opinion defines it better than a footless boot without a leg, or a bodiless shirt without neck or sleeves."

Curran was once making his address to the jury when an ass was heard to bray. " One at a time, Mr. Curran, if you please," said the judge, smiling at his own humour. Later on, when the judge was charging the jury, the animal outside again uttered a loud " Hee-haw-w-w ! " " Does not your lordship hear a remarkable echo in the Court ? " quietly inquired Curran.

Curran was one day engaged in a case in which he had for a colleague a remarkably tall and slender gentleman, who had originally intended to take orders. The judge observing that the case under discussion involved a question of ecclesiastical law, Curran interposed with : " I can refer your lordship to a high authority behind me, who was once intended for the Church—though, in my opinion, he was fitter for the steeple."

An Irish attorney, Peter M'Nally by name, was seized at the time of the rebellion with a military ardour. He was very lame, and when walking had a limp, which he could not bear to be told of. Meeting Curran one day, he said : " My dear friend, these are not the times for a man to be idle. I mean to enter the lawyers' corps and follow the camp." " You follow the camp, my little man of the law ! " said the wit. " Renounce the idea, you can never be a disciplinarian." " And why not, Mr. Curran ? " said M'Nally. " For this reason," said Curran ; " the moment you were ordered to march you would halt."

Judge Norbury, known as the "Irish Jeffreys," was a member of the order of the "Monks of the Screw," whose fame Curran, as president, has celebrated in the song of the same name. Norbury was never known to acquit a prisoner charged with treason, and his sentences to death were numerous beyond counting. It was at a convivial meeting of the "Monks of the Screw" that Norbury, espying a tempting dish of meat in front of the president, said: "Is that beef hung, Mr. Curran?" "Oh, no, my lord," replied the patriot advocate; "you have not tried it."

Lundy Foot, the celebrated Dublin tobacconist, having prospered much in business, set up his carriage, and applied to Curran for a motto. "Give me one, my dear Curran, of a serious cast, because I am afraid the people will laugh at a tobacconist setting up a carriage; and, for scholarship's sake, let it be in Latin." "I have just hit on it," said Curran; "it is only two words, and it will at once explain your profession, your elevation, and your contempt for their ridicule, and it has the advantage of being in two languages—Latin or English.. just as the reader chooses: put up '*Quid rides*' upon your carriage."

The wit reached Cheltenham on the night that the news of the victory at Algiers arrived, and a lady, expatiating on the barbarities of the pirates, expressed a regret that the place had not been entirely demolished. "Ah, my dear madam," said Curran, "they have had enough of it. Sufficient unto the Dey has been the evil thereof."

Like all wits, however, Curran met his match at times. Samuel Rogers describes how he was dining with Curran at Greenwich, when the Irishman exclaimed, with the humorous exaggeration of the Celt, of something he would not do: "I had rather be hanged on twenty gibbets." "Don't you think, sir, that one would be enough for you?" said a girl sitting at the next table. Says Rogers: "I wish you could have seen Curran's face; he was absolutely confounded—struck dumb."

Sir Jonah Barrington also tells of an occasion when Curran met his match. "I never saw Curran's opinion of himself so much disconcerted," he says, "as by Mr. Godwin, whom he had brought, at the Carlow assizes, to dine with Mr. Byrne, a friend of ours, in whose cause he and I had been specially employed as counsel. Curran, undoubtedly, was not happy in his speech on that occasion ; but he thought he was. Nevertheless, we succeeded, and Curran, in great spirits, was very anxious to receive a public compliment from Mr. Godwin, as an eminent literary man, teasing him (half jokingly) for his opinion of his speech. Godwin fought shy for a considerable time. At length Curran put the question home to him, and it could no longer be shifted. "Since you will have my opinion," said Godwin, folding his arms, and leaning back in his chair with sang froid, "I never did hear anything so bad as your prose, except your poetry, my dear Curran."

There was another occasion when Father O'Leary scored off Curran. "Father O'Leary," said Curran, in one of his gay moods, "how I wish when I die that you had the key of heaven." "Why ?" asked O'Leary. "Oh," replied Curran, "because you could then let me in." "It would be better for you," retorted the friar, with a merry twinkle in his eye, "if I had the key of the other place, for then I could let you out."

O'Connell's humour was of the more ponderous type, and he depended a great deal for the success of his cases on the power of ridicule. When practising at the Irish Bar he was retained in a Kerry case in which the venue or place of trial was laid in Dublin. O'Connell was instructed to try and get the place of trial changed from Dublin to Kerry. The motion was resisted by a Mr. Scriven, the counsel opposed to O'Connell, who happened to be a gentleman of very plain and even forbidding features, and of ultra-Tory politics. He stated he had no knowledge of Kerry, and, indeed, had never visited that part of Ireland. "Oh," replied O'Connell, "we will be glad to welcome my learned friend, and to show

him the lovely Lakes of Killarney." "Yes," growled Mr. Scriven; "perhaps the bottom of them." "No, no," retorted O'Connell; "I would not frighten the fish."

O'Connell had the knack of insinuating half-a-dozen speeches to the jury in the course of a case. He would put an illegal question to a witness. The command, "Don't answer that," would fall as a matter of course from the Crown Prosecutor. Then, says a biographer, O'Connell would proceed to argue with the judge on the relevancy of the question. "You see, my lord," he would say, "the reason why I put the question is because if the witness answers it in the affirmative it would then be manifestly impossible that the prisoner could have been present at the murder; whereas, on the other hand, if the answer were in the negative, then the credibility of the whole case for the Crown would be infringed by that very answer; so then, in any event, my lord, the jury would be obliged to acquit my client." In this way, when the occasion required it, he could confuse a jury by a rhetorical distortion of fact and inversions of logic.

Another forensic trick of his was derisively to expose the real, or assumed, legal ignorance of the counsel opposed to him. "Good God, my lord!" he would exclaim, interrupting the address to the jury, "did anyone ever hear a Crown lawyer pronounce such monstrous law?" He was also a consummate actor. He could adapt himself with marvellous versatility to every situation and every audience. Often by a look or a gesture he would convey more to a jury than the Crown counsel could effect in one hour's speech. A quizzical glance or a wink at the jury, a scornful look or shake of his head at the opposing counsel, a defiant stare at the judge, an affectation of unconcern to hide his anxiety in a critical case, or pretending to be in a rage, a vigorous thump on the bench before him, or a quick explosion of passion or sarcasm, which the judge was powerless to stop, often constituted an irresistible appeal to the ignorance, the emotions, or the prejudices of the twelve men who had

the decision of the issue. He had also remarkable powers of mimicry, and he could talk to the witnesses in their own rustic patois or vernacular. Thus in the searching cross-examination and the dexterous handling of hostile witnesses he was always entertaining and illuminating, and often convincing.

Some of the tricks and subterfuges to which O'Connell resorted in order to confound witnesses would hardly commend themselves to our age. At the Clare Assizes, held in Ennis, two brothers named Hourigan were indicted for setting fire to a police barrack. The strongest point against the prisoners was that, on being arrested, their clothes were found smeared with pitch, the substance with the aid of which the building had been ignited. O'Connell had a skillet, or small pot, containing pitch secretly placed near the witness chair, and covered with his broad-brimmed hat so as to effectually conceal it. The principal witness for the prosecution was the police inspector. He said he had arrived on the scene during the fire, and the strong smell of pitch which prevailed naturally suggested to him how the crime had been committed. "You know the smell of pitch, then ?" said O'Connell, opening his cross-examination. "I do, well," replied the witness. "You seem to be a man able to smell pitch anywhere," said O'Connell in bantering tones. "Undoubtedly I'd smell it anywhere," answered the witness confidently. "Even here, in this Court, if it were here ?" "Undoubtedly I would." "And do you swear you do not get a smell of pitch here ?" asked O'Connell. "If it were here I should smell it." said the witness. "Now," cried O'Connell, in his loudest and most scornful voice, "you may go down, you perjured rascal !" And lifting his hat from the table he displayed to the astonished spectators the pot of pitch right under the nose of the witness. The trick succeeded. A verdict of "Not guilty" was returned by the jury.

An oft-quoted example of O'Connell's acuteness in cross-examination concerns a trial in which he was engaged, the question at issue being the validity of a

will which the plaintiff alleged to be forged, and under which considerable property was devised. The witnesses for the defence swore that the testator signed the will while "life was in him." The evidence was going strongly in favour of the plaintiff, when O'Connell undertook to cross-examine one of the witnesses. He observed that this witness, like the others, repeatedly swore that "life was in" the testator when the will was signed, and that he saw the testator append his signature to the document.

"By virtue of your oath, was he alive?" asked O'Connell. "By virtue of my oath," said the witness, "life was in him." "Now," continued O'Connell, with great solemnity, "I call on you, in the presence of your Maker, before whom you must one day be judged for the evidence you give here to-day, I solemnly ask—and answer me at your peril—was it not a live fly that was in the dead man's mouth when his hand was placed on the will?" The witness instantaneously fell on his knees, and acknowledged that it was so. A fly had been placed in the mouth of the deceased so that it might be sworn that "life was in him."

O'Connell was rather fond of practical joking outside the Courts. When Sir William Howard Russell (then Mr. Russell) was a young reporter he was sent to Ireland by *The Times* to report Daniel O'Connell's speeches during the Repeal agitation. One of the first meetings he attended was in Kerry. Having heard of O'Connell's courtesy, he thought that he would ask his permission to make a verbatim report of his speech.

The "Liberator" not only consented, but in his suavest manner informed the assembled audience that "until the gentleman was provided with all writing conveniences he wouldn't speak a word."

Russell was delighted. His preparations were soon completed.

"Are you quite ready?" asked O'Connell.

"Quite ready," Russell replied.

"Now, you are sure you're entirely ready?"

"I'm certain, sir."

The crowd was becoming excited and impatient. O'Connell rebuked them.

"Now, upon my conscience," said he. "I won't begin my speech till the London gentleman is entirely ready."

After waiting another moment, O'Connell advanced to the front of the platform. Eyes glistened, ears were all attention, and the reporter's pencil was poised in the air. O'Connell bestowed one more benignant smile on the correspondent, winked wickedly at his auditors, and began his speech—in the Gaelic language!

Judge Morris has often been referred to as one of the wittiest of Irish judges. He was once obliged to hear a case at Coleraine in which damages were claimed from a veterinary surgeon for having poisoned a valuable horse. The issue depended upon whether a certain number of grains of a particular drug could be safely administered to the animal. The dispensary doctor proved that he had often given eight grains to a man, from which it was to be inferred that twelve for a horse was not excessive.

"Never mind yer eight grains, docther," said the judge. "We all know that some poisons are cumulative in effect and ye may go to the edge of ruin with impunity. But tell me this: The twelve grains—wouldn't they kill the Devil himself if he swallowed them?"

The doctor was annoyed, and promptly replied: "I don't know, my lord, I never had him for a patient."

From the Bench came the answer: "Ah, no, docther, ye niver had, more's the pity! The old bhoy's still aloive."

No anecdote is better known of him, perhaps, than that concerning his reception of a distinguished Treasury official, who after a long correspondence on the part of the Department was sent over to inquire into the expenditure of fuel in the Courts and judges' chambers. The Chief Justice received him politely and asked him to sit down, and, after listening with patience and attention to

his complaint, said he would put him in communication with the proper person. He then got up and rang the bell ; when the tipstaff appeared he said, as he left the room : " Tell Mary the man has come about the coals."

Counsel in a sanitary case, addressing Lord Morris said : " I shall assume that your lordship is fully acquainted with the statutes and authorities." " Assume nothing of the sort," was the unexpected response ; " I yield to no man in my utter ignorance of sanitary law ! "

Morris was fond of relating the following story to his friends : It was at the time of a general election, and one day, when he was leaving the Law Courts, a sweep accosted him and addressed him with familiarity. " Be off, ye dhrity schroundrel," said Lord Morris, " I don't know ye ! " " Sure, that ye do, yer 'oner," replied the sweep. " I've nivir set eyes on ye before ! " " Yis, ye ave, yer 'oner. I swept yer 'oner's chimneys." " Oh, it was you, was it ? And I'll nivir employ ye again," replied the judge ; " ye did the work badly, and they've smoked ivir since. I'll nivir have thee again." " Oh, yes, ye will, yer 'oner," replied the man. " And I tell ye, I won't," angrily answered Lord Morris. The sweep persisted that he would be employed again, so Lord Morris asked why, saying that there were plenty of other sweeps in Ireland. " Sure, yer 'oner, all the other sweeps 'ave become Mimbers of Parliament ! "

Shortly prior to his retirement from the Court of Appeal, Lord Morris, in his official capacity of Vice-Chancellor of the Royal University of Ireland, received Royal visitors to the Dublin Flower Show. On such occasions it was incumbent on him to wear his golden-streaked robes of office. Deeming it necessary to explain why he donned such gorgeously-hued habiliments, he said : " Your Royal Highness will observe that as Vice-Chancellor of the University I am obliged to wear all this fine toggery. I think it only fair to offer you this explanation ; otherwise you might think I was trying to transform myself into a sunflower ! "

Lord Morris's wit was accentuated by a rich Irish brogue. "Thank God," he once said, "no one, drunk or sober, could take me for anything but an Irishman."

Once, however, a good joke was made at the expense of his brogue. He and a brother luminary of the English Bench attended the wedding of a very pretty Society young lady, and as the happy party drove away from the church the worthy judge remarked: "I wish I had brought a shoe to throw at them." "A shoe, my lord," was the witty rejoinder, "why not throw your brogue?"

It was Judge Morris, too, who was responsible for the following *bon mot*. "I remember," he once said, "when the jurors were taken in alphabetical order. Ten men of the name of Murphy were on the jury, all first cousins of a farmer named Murphy, in the dock. The other two jurymen were Moriartys, but what chance had they against ten Murphys, and the Murphys were so busy talking to the Moriartys that nobody listened to me. Without leaving the box the jury acquitted the prisoner."

"What sort of law do you call that?" asked a Saxon, standing by.

"I should say it was a case of jury's prudence," said his lordship.

For quiet, sarcastic humour, however, the following comment by Judge Morris must be given pride of place. He had just sentenced a man at Cork Assizes for a violent attack on the police. The prisoner, as he left the dock, shouted defiantly: "God save Ireland!" "My friend," said Lord Morris, "you are just one of those persons who make it impossible for God to save Ireland. Remove the prisoner."

Morris had not a very high opinion of either the intelligence or the straightforwardness of politicians. His reply to someone who asked him, somewhat inaptly, to explain "the Irish question" in a few words is well known. "It is the difficulty," he said, "of a stupid and honest people trying to govern a quick-witted and dishonest one."

In defence of his hostility to Home Rule, Lord Morris occasionally made use of the following argument : "Here we are, a very poor country, in partnership with a very wealthy kingdom, with one hand in the till, and nothing will please the Separatists but to get away to set up a little shebeen of their own."

The latter story calls to mind an occasion when Judge Morris attended a brilliant party at the Vice-Regal Lodge, Dublin, when it was occupied by the Earl of Aberdeen, Mr. Gladstone's first Home Rule Lord-Lieutenant. It is related that the Viceroy's wife, in the course of conversation, said to him : "Chief Justice, are there many Home Rulers here to-day ?" "My lady," he replied, "the only Home Rulers present are yourself, His Excellency, and the waiters."

Judge Morris was no admirer of Mr. Gladstone and his Irish policy, and when some one with whom he was conversing described that statesman as a heaven-born genius, he observed that he "devoutly hoped it would be a long time before heaven was in an interesting condition again."

Though every generous legislative change had his sympathy, he was sceptical of the many solutions and artificial remedies for the Irish problem which he in a long life had heard "discovered" and promulgated over and over again. He said he had been listening to talk about the "prosperity of Ireland" as long as he could remember—for over sixty years—and during that time it had been always just going to come; and he would add : "When I see the true state of affairs in Ireland, and hear of all these panaceas, I am only reminded of the veterinary surgeon's bill, on which was entered the item—'to curing your honour's horse till it died.'"

Mr. William Harvey, who in "Irish Life and Humour,"—his very excellent and entertaining companion volume to "Scottish Life and Character,"—tells some capital anecdotes of Judge Morris, says that it was in his lordship's Court that one of the strangest judgments on record was once given. It was an abduction

case, the offence being of a purely technical character. Having listened patiently to the evidence, the judge, addressing the jury, said: "I am compelled to direct you to find a verdict of guilty in this case, but you will easily see that I think it is a trifling thing, which I regard as quite unfit to occupy my time. It is more valuable than yours. At any rate, it is much better paid for. Find, therefore, the prisoner guilty of abduction, which rests, mind ye, on four points—the father was not averse, the mother was not opposed, the girl was willing, and the boy was convaynient." The jury found the prisoner guilty, and the judge sentenced him to remain in the dock till the rising of the Court! Hardly had he delivered sentence when, turning to the Sheriff, Lord Morris said: "Let us go," and, looking at the prisoner, he called across the Court: "Marry the girl at once, and God bless you both."

On another occasion a highly-connected lady was giving evidence in a sensational case tried by Lord Morris. An important point turned on its being proved whether or not the witness was in Dublin on a certain day. Having deposed that she was in the Irish metropolis on the date in question, she turned round to the judge, and said: "Your lordship ought to know that what I state is a fact." "Why?" the Chief Justice asked, in astonished tones. "Because," the lady replied, "it was the last day of the assizes, and you and I travelled from Galway to Dublin in the same railway carriage." There was a subdued snigger in Court at the judge's expense. He, however, adroitly turned the tables by saying in a most strident yet deferential manner: "Madam, for the sake of my character I must ask you, Was there not a third party present all the way?"

Yelverton, who was Chief Baron of the Exchequer in Ireland, was also very witty. He once went a Lent circuit, and one of the assize towns happened to be a place of which one of his college contemporaries held the living; at his own request, the Chief Baron's reverend friend preached the assize sermon.

The time being the month of March, the weather was cold, the judge was chilled, and, unhappily, the sermon was long and the preacher tedious. After the discourse was over the preacher descended from the pulpit and approached the judge, smirking and smiling, looking fully satisfied with his own exertions, and expecting to receive the compliments and congratulations of his quondam chum.

"Well, my lord," he asked, "and how did you like the sermon?"

"Oh, most wonderfully," replied Yelverton. "It was like the peace of God—it passed all understanding; and—like his mercy—I thought it would have endured for ever."

A brusque, strenuous judge, who regarded levity in Court with the strongest disapproval, Lord Russell of Killowen figured in few amusing episodes.

On one rare occasion, however, he did crack a joke in Court. The story is told by Mr. B. de Bear, who retired from the position of Principal of Pitman's School of Shorthand in 1913, and who was once called upon to give evidence as an expert witness before Lord Russell. The whole of the dispute turned upon whether a certain outline in a shorthand clerk's notebook was intended as a thick or thin stroke. Mr. de Bear gave his opinion, and was supported by the counsel on the other side, Sir Edward Clarke, himself a shorthand writer of no mean attainments. Lord Russell, in a particularly bad humour, would have none of it, and, despite all the weight of evidence from people who might be supposed to know, positively refused to accept the suggestion between the values of strokes when taking notes.

"Only I observe," he said, turning to Mr. Asquith, counsel for the other side, "that our friend is resolved to stand by his client through 'thick and thin.'"

Perhaps one of the best stories concerning Lord Russell is that told on the authority of Sir Charles Mathews, who was appointed Director of Public Prosecutions in 1908. The incident occurred shortly after Lord Russell

took silk. It appears that one warm summer afternoon, when the late Mr. Justice Denman was on the Northern Circuit, some very high words were flung, just before the rising of the Court, from the Bar to the Bench, in a tone and with a vehemence which caused the learned judge to say that he would not trust himself to reprove them in his then condition of sorrow and resentment, but would take the night to consider what he ought to do, and when they met again the next morning he would announce his determination.

In considerable commotion the Court broke up, and on the following day it was crowded in anticipation of a scene—an anticipation somewhat encouraged by Mr. Justice Denman's entry into Court with, if possible, more than ordinary solemnity, and who on taking his seat commenced the business of the day by saying :

“ Mr. Russell, since the Court adjourned last evening I have had the advantage of considering with my brother judge the painful incident . . . ” Upon which Russell quickly broke in with : “ My lord, I beg you will not say a word more upon the subject, for I can honestly assure you that I have entirely and for ever dismissed it from my memory ”—a turning of the tables which provoked a roar of laughter in the Court that even the learned judge himself could not but join in.

Someone has said that Lord Russell was entirely deficient in humour, a statement, however, with which few will agree who have read his speeches and letters in his biography by Barry O'Brien. What could be more humorously laconic, for instance, than the following reply, which he sent to one of his boys who had written from college for a cheque.

Dr. F.

Ck

work !

C.R.

Wedy.

Or this. Russell, in the early part of his career at the Bar, was in Court during the trial of a case of bigamy,

and one of the counsel in the case, turning to him, asked him in a hurried whisper: "Russell, what's the extreme penalty for bigamy?" "Two mothers-in-law," was the prompt reply of the future Lord Chief Justice.

Which calls to mind the story of the popular lawyer humorist, George Brown, who once asked Cresswell to postpone a certain case. Cresswell, who hated postponements, asked the reason. "It will be inconvenient to me to be here to-morrow, my lord. The fact is, I am going to take the first step towards a divorce." The appeal touched the judge, who promptly agreed to a postponement.

The next day Brown got married.

And Lord Russell delighted to recount this story, told him by Mr. Russell Lowell. A distinguished American politician, after a Presidential election in which his candidate had been ignominiously defeated, and defeated largely by the Irish vote in America, called upon Mr. Lowell. The visitor ventilated his grievances, speaking with no sparing tongue of what he considered to be the misguided action of the sons of the Emerald Isle, and Mr. Lowell proceeded to talk on indifferent subjects. At last he said: "And where are you going to spend your holiday?" "Well," said his visitor, "I think I shall spend it in Ireland." "In Ireland!" said Mr. Russell Lowell, "after all the abuse you have been lavishing on the Irish?" "Well, I guess," was the reply, "that is about the only country in the world where English is spoken where the Irish don't rule."

Lord Russell related, too, in public, during an inaugural address in 1898 at the Epsom Literary and Scientific Society, this story of the late Professor Huxley. The professor was attending a meeting of the British Association in Belfast, and finding himself late for a dinner engagement, jumped on an Irish jaunting car and told the driver to drive him like the devil. The man immediately proceeded to lash the horse into a gallop. In a moment or two Professor Huxley asked him, "Do you know where you have to go?" "Begorra, I don't."

replied the man, "but sure I am driving like the Devil, anyhow."

Lord Russell, a pastmaster in the art of cross-examination, was on one occasion distinctly beaten by a witness. "What is your age?" he asked. "Is it my age you are asking?" replied the witness in an exasperatingly slow manner. "Yes, sir," commanded the eminent jurist; "speak up now, and be exact." "And be exact! Well, in all my born days I never——" "Come, come," broke in the examiner, "the Court does not desire to hear any comments of yours. Tell the Court your age." "Well," said the man, "I celebrated my twelfth birthday last week." "Don't trifling with the Court, and remember you are on oath," warned Lord Russell. "It's quite true," unconcernedly finished the witness, "I was born on the twenty-ninth of February in leap year, and my birthday comes only once in four years."

He also got a Roland for an Oliver from a cabman at Manchester. He and his junior were paying a visit and called a cab. This particular afternoon Russell was in a very disagreeable mood. Things had not been going well during the day. The cabman was a big, powerful, athletic-looking fellow. On approaching the cab, Russell, as was his wont, closely scanned the horse and the man. "Why," said he, "a big, powerful fellow like you ought not to be driving a cab; you ought to be doing something else." "What the deuce is it to you," said the cabman, "what I do? Get into the cab and mind your own business."

This was, however, by no means the only "set back" Lord Russell had. It was his habit, when he wished to embarrass an opposing counsel, to pretend to go to sleep, as if the other man were too tedious to be heard. Mr. Gill, then a comparatively unknown man, laid the foundation of his reputation by shouting across the Court: "Now, Sir Charles, don't pretend you are asleep. We know that dodge, and are tired of it!"

Which reminds one of the story of the irascible old judge who, when a celebrated advocate was arguing

before him one day, expressed his contempt by pointing with one forefinger to one of his ears and with the other to the opposite one.

“ You see this, Mr. — ? ”

“ I do, my lord,” said the advocate.

“ Well, it just goes in here and comes out there ! ” and his lordship smiled with the hilarity of a judge who thinks he has actually said a good thing.

“ I do not doubt it, my lord,” promptly replied the advocate. “ What is there to prevent it ? ”

Lord Russell’s smartness, however, is strikingly illustrated by the following story. A juryman sought to be excused from serving. “ On what ground ? ” asked his lordship. The man approached with his hand to his ear and said : “ I’m deaf, my lord, and cannot hear the evidence.” “ You can go,” said Lord Russell in a whisper. “ Thank you, my lord,” replied the juryman, taken off his guard. But the learned judge had not finished his sentence, and he sternly added, “ into the box and do your duty ! ”

Russell, however, could be very bitter at times, and there was one memorable occasion when, asked by a law lord for some authority for a proposition, he immediately rapped out : “ Usher ! Go into the library and bring me an elementary book on common law.”

Although he was a great lawyer and a great orator, Russell had his little failings, and one of these failings was that it absolutely upset him when anybody presumed to differ from him. On one occasion, in talking to Mr. Gully, afterwards Speaker of the House of Commons, Sir Charles Russell, as he then was, said : “ I never could have imagined that Mr. — was so narrow-minded ! ” “ Narrow-minded ! ” replied Mr. Gully in surprise. “ Not a bit of it ; he is a most liberal-minded man.” “ Don’t be ridiculous,” somewhat petulantly answered Sir Charles Russell, “ why this morning he differed from me twice in half-an-hour ! ”

On one occasion Lord Russell went to help the Liberals in a certain campaign. He began his speech of set

purpose with some very badly pronounced Scotch. After the confusion caused by his apparent blunder had subsided, Sir Charles said : " Gentlemen, I do not speak Scotch, but I vote Scotch." Tremendous applause followed ; whereupon Sir Charles proceeded, " and I sometimes drink Scotch." With this, says tradition, his hold on the audience was secured.

An illustration of Russell's cleverness in appealing to the emotions is afforded by a breach of promise case in which he appeared for the plaintiff in his early days. " The case," says his devil, " was a simple one, and practically the question was the amount of damages which the plaintiff would get. Directly his junior and the solicitor had seated themselves in his room for the consultation, he turned to the latter, and asked : ' What is your client going to wear at the trial ? ' The solicitor replied that he had not the faintest idea. Russell then said, ' Take her to her dressmaker, and order a perfectly plain dress of a soft grey colour, fitting closely to the figure, without any trimmings, and a big black hat, also as simple as possible.' The consultation was very short, and the case itself was practically not discussed—indeed there was little to discuss in it. Russell's client got a verdict for £10,000."

Of present-day Irish wits in wigs, Mr. Timothy Healy, the popular M.P. for N.E. Cork, may be said to be pre-eminent. When Healy " is up " either in the House or in court, a big audience is assured. His rapier wit is deadly. He was once engaged in a marital case at Dublin, being counsel for the husband, the defendant. The plaintiff's counsel made an impassioned address on his client's behalf, an address which moved the members of the jury, one after the other, to tears, and caused the judge, red-eyed, to send for a fresh supply of handkerchiefs ; at length, himself overcome, the counsel sat down and buried his face in his hands. It was a trying moment for the next speaker, and Mr. Healy rose. He looked significantly at the judge, at the jury, and at the counsel who had sat down, and again he let his gaze

rest momentarily on the judge, the jury and the opposing barrister, and then began :

“ My lord, never since Moses struck the rock has there been such a miracle.”

On another occasion in a Dublin case the opposing counsel applied for an adjournment. The judge asked for a reason. “ My lord, I have been arguing the case all day in Court II.” “ And you, Mr. Healy, on what grounds do you ask that this case be adjourned ? ” asked the judge. “ Tim,” with a suspicion of a yawn, answered courteously, “ My lord, I have been listening all day to my learned friend ! ”

Mr. Healy has enriched current Parliamentary debate more than any other member. One recalls, from the rich store of his audacious felicities, his description of a Bill to which he objected as the offspring of “ a headache of the Irish Office,” and his declaration that a proposal of the Government was to “ feed a dog with a bit of its own tail.”

No electioneer is quicker at retort than Mr. Healy. An elector once informed him that he would “ sooner vote for the devil than for Healy.” “ But possibly your friend may not turn up,” said “ Tim,” adding in a tone of mild enquiry : “ Perhaps you would support me then ? ”

Generally regarded as a satirist of the most scathing description—“ a ramping, raging Irishman, ready to scarify anyone from whom he differs with his vitriolic tongue”—Mr. Timothy Healy is at heart one of the tenderest and most amiable men. It would greatly surprise those who know him only as a sharp debater to see him on the domestic hearth playing with children as only a lover of them can. In more than one London house, “ Tim ” has been seen on his hands and knees with a delighted toddler astride on his back. The story of the precocious daughter of a now dead novelist is very true. She and “ Tim ” were, and are, good friends, as somebody else discovered when telling stories to the little, wise girl of ten. “ You don’t seem interested ; I don’t

think you like me as you used to do." "Well," said the child, "to tell you the truth Mr. Healy has spoilt me for all other men."

There is a good story told in the hall of Gray's Inn apropos of "Tim's" call to the Irish Bar. Having never heard him speak, the students on "call night," asked him for a speech. "Tim's" reply was that as he was not accustomed to public speaking he would give them a song instead. The students were delighted, and the substitute proved a great success.

Probably Mr. Healy is the only M.P. who ever wore a hat for ten years at a stretch. The story of that celebrated *chapeau* is worth recalling. After the historic hand-to-hand fight in the House of Commons in 1893 the Mayor and Corporation of Alexandria, Louisiana, cabled to Mr. Healy that, reading that his hat was broken in the melee, they had voted him a new silk hat and hat-case out of the public funds, and requesting him to cable the size of his head. When the new hat arrived he undertook to wear it to its utmost limits. Ten years later, the whole House of Commons fairly gasped when, one fine afternoon, "Tim" appeared in a new silk hat. He had been so joked about his shabby hat that, after a decade's constant wear, he reluctantly decided to discard the gift "with many a pang," as he said, "at parting with an old friend."

It has been said that it is in the law courts that the average Irishman is seen at his best. Certainly the humour which has scintillated at times through the Irish courts seems justification for the assertion, and perhaps there are no more amusing examples of Irish legal humour than those connected with the word "alibi."

There is a story told of a certain Mike Murphy who was arrested in a town in California for brutally assaulting a Chinaman. His lawyer advised him that he had no defence.

"But," said Mike, "in New York the byes had something they used whin in trouble. I think they called it an allybye. Can't you thry that?"

"I hardly care to try the case, but you can try it yourself. Have you a friend you can call to prove the alibi?"

"Yes; Tim Maginnis."

"Well, after the Chinaman has presented his case, you call Maginnis, and be sure to ask him:

"Mr. Maginnis, where was I when the Chinaman was struck in front of the hotel?"

At the hearing, the Chinaman and his witnesses having testified to the assault, Mike put Maginnis on the stand, and proceeded to examine him:

"What's your name?"

"Tim Maginnis, sor."

"What's your occupation?"

"Hod-carrier, sor."

"Mr. Maginnis, do you understand the nature of an oath?"

"Yes, sor; I tink I do."

"Well, sor, will ye plaze tell the magistrate where I was when I struck the Chinyman in front of the hotel?"

Mike's alibi went up in the air, and a paltry fine on the record.

An Irish barrister, who was evidently prepared for every possible contingency, is alleged to have addressed the presiding Judge as follows: "Your honour, I shall first absolutely prove to the jury that the prisoner could not have committed the crime with which he is charged. If that does not convince the jury, I shall show that he was insane when he committed it. If that fails, I shall prove an alibi!"

Here are two more stories regarding the word "alibi." During a recent trial the Judge interposed in the course of the examination and asked the witness if he knew what was meant by an alibi. "Yes, to be sure I do, yer honour," promptly answered the witness. "Tell me, then," said the Judge, "what you understand by it?"

"Sure," said Pat, "it's just like this—it's to be afther proving that ye wasn't where ye was when ye committed a crime that, sure, ye never committed at all."

Prisoner was trying to explain to a Judge and jury his innocence of a certain crime. "It's not meself," he said, "as'll be afther trying to desave yer honours. I didn't hit the poor dead gintleman at all, at all. It was him that shtreck the blow, and the exartion killed him, and, what's more, I wasn't there at the time." "I perceive," observed the Judge, "you are trying to prove an alibi." "An al-loi-boi!" exclaimed the prisoner, evidently pleased at the big word being suggested to strengthen his defence. "Yes," said the Judge. "Can you tell me what is a good alibi?" "Faith, yer honour," replied the prisoner, "and it's a loi boi which the prisoner gets off."

The Irishman's humour is very pointed at times. Here is a specimen.

Judge: "Pat, I wouldn't think you would hit a little man like that."

Pat: "Suppose he called you an Irish slob."

Judge: "But I'm not an Irishman."

Pat: "Suppose he called you a Dutch slob?"

Judge: "But I'm not a Dutchman."

Pat: "Well, suppose he called you the kind of slob that you are?"

Baron Dowse dearly loved to tell the following story against himself. A case once came before him in which the prisoner could only speak Gaelic. An interpreter was accordingly sworn. The prisoner said something to the interpreter.

"What does he say?" demanded his lordship.

"Nothing my lord," was the reply.

"How dare you say that when we all heard him! Come, sir, what was it?"

"My lord," said the interpreter, beginning to tremble, "it had nothing to do with the case."

"If you don't answer, I'll commit you, sir!" roared the Baron. "Now, what did he say?"

"Well, my lord, you'll excuse me, but he said: 'Who's the old woman with the red bed-curtain round her sitting up there?'"

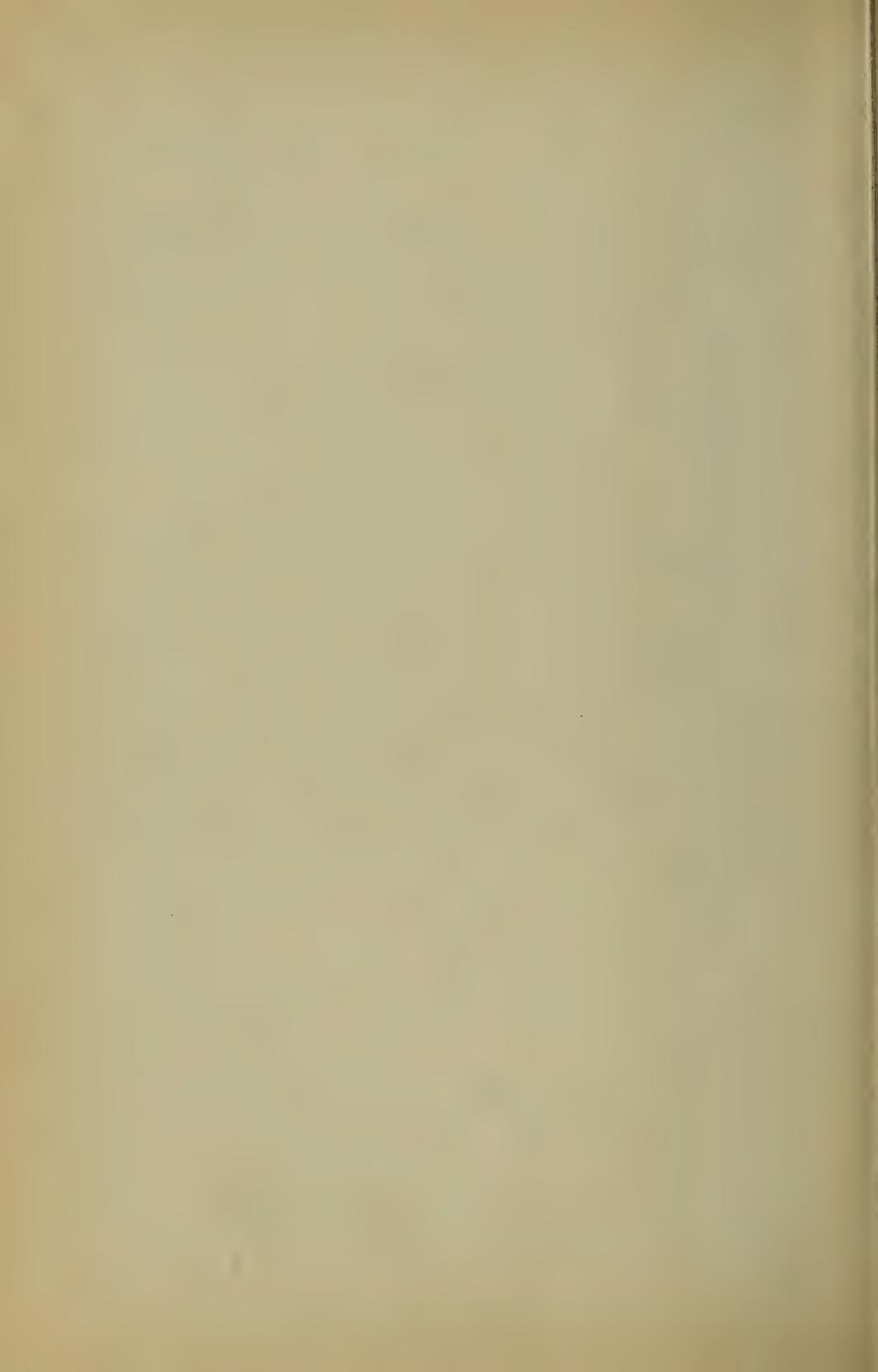
At which the Court roared.

“ And what did you say ? ”

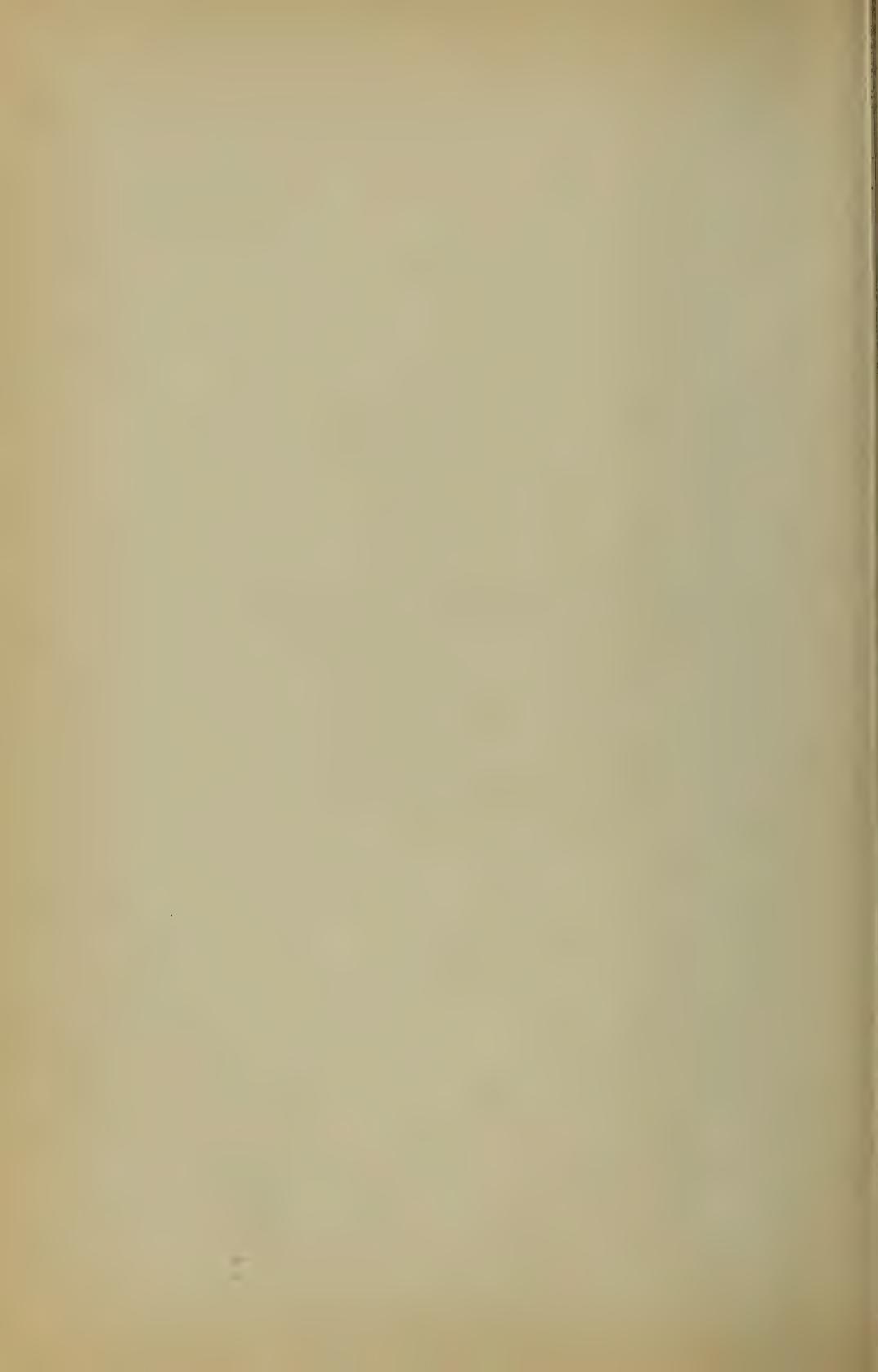
“ I said : ‘ Whist, ye spalpeen ! That’s the ould boy that’s goin’ to hang yez ! ’ ”

Another story refers to a counsel, who, having lost his cause, which had been tried before three judges, one of whom was esteemed an able lawyer, while the two others were regarded as very indifferent ones, was nettled by the merriment of his brother barristers. “ Well, now,” said he, “ who, by St. Patrick could win it when there were a hundred judges on the Bench ? ” “ A hundred ! ” was the general exclamation ; “ there were only three.” “ By all the saints in the calendar,” replied the defeated barrister, “ there were one and two cyphers ! ”

And the chapter might be concluded with the story of an Irish Justice of the Peace, whose knowledge of the law was never gained from books or actual practice before the Bar. He was hearing an assault and battery case. Counsel for the defence was shouting his arguments when the magistrate said : “ That’ll do. Set down.” He then adjusted his spectacles and sagely observed : “ Prisoner, sthand up ! Accordin’ to th’ law an’ th’ ivydince—an’ there is no ivydince—Oi foind yez guilty, sor, an’ foin yez forty shillings. If ye’re guilty, faith, ‘tis a very light sintince ; an’ if ye’re not guilty it’ll be a moighty good lesson for yez ! ”



HUMOURISTS OF THE AMERICAN BAR



CHAPTER VII

HUMOURISTS OF THE AMERICAN BAR

“ Law and equity are two things which God hath joined, but which man hath put asunder.”—*Colton*.

WHEN one begins to talk about the humours of the legal profession on the other side of the Atlantic, there is one name which at once invariably comes to the mind, that of Joseph Hedges Choate, “the cleverest lawyer and wittiest son of the States,” as an admirer has put it.

Many an unhappy litigant has felt the sting of his wit ! There was one particular occasion when Choate was briefed to defend a wealthy old gentleman in a breach of promise case. The lawyer hadn’t a shred of evidence at his back. But he played with words, he made puns and jests, made the jury laugh, made the opposing counsel and his lady client alternately writhe and glower, and snatched the old gentleman out of the jaws of destruction by the mere art of laughter.

Those who secured his services had nothing to complain of in regard to his enthusiasm on their behalf. Once he was engaged by a gentleman of Hebraic origin, who was making some claim of £500. Clearly Choate must have been well inspired with the merits of his client’s case, for he won the day to the extent of getting his client not £500, but £2,500 damages.

And his client, thanking him with tears of gratitude in his eyes, said : “ Almost persuadest thou me to be a Christian.”

Of Choate’s wit many examples could be given. It may be remembered that it was he who, when once asked who he would choose to be if he could not be Mr. Choate,

✓ replied, "I would like to be Mrs. Choate's second husband,"—a reply frequently cited as the most charming compliment any wife could possibly receive.

Mr. Choate, however, is always happy in his references to the opposite sex. At a dinner on one occasion he noticed that the ladies had been excluded from participation in the banquet, but had been permitted to sit in the gallery and watch the feeding. "Now, I know," said Mr. Choate, during his after-dinner speech, "what the Scripture phrase means when it is written, 'Thou madest man a little lower than the angels.'"

He is also responsible for a good story of how a girl throws.

Two young girls were drinking tea at a fashionable restaurant, when a young man passed. As he passed, the first girl blushed, displayed a beautiful ring on her white hand, and murmured :

"Well, Jack and I are to be married Easter week."

"But," said the other girl, "I thought you had thrown Jack over!"

"Oh, so I did," the first replied, "but—but you know how a girl throws!"

Many people consider that one of Choate's best stories is that which he told at the dinner in London, some time ago, which admitted him to the Society of the Old Benchers of the Inner Temple. It was the story of an impoverished young Irish gentleman, the younger son of a lord, who, driven forth by poverty from his father's estate, went to London to seek his fortune. He seemed to be buried in London, for nothing was heard of him for several years.

He had been a gay, convivial blade, and in the little home village he was missed. There wasn't a poacher or a roysterer within ten miles that hadn't a soft spot for Denis in his heart. Word one day passed about that up at the castle news had been received of Denis. The village at once became excited, and a deputation of a half-dozen or so was soon on its way to see the o'd lord.

"My lard," said the spokesman, "is it true ye've gotten news o' yer son, Mr. Denis?"

"Aye, true enough. News at last, boys," said his lordship.

"Faith, then, an' phwat might the bhoy he doin' up in London?" was the next question.

"He has been called to the Bar," the lord answered proudly.

The deputation looked at one another, for the phrase was new to them. Finally, in a loud whisper, one said :

"Oi don't know what that manes; but, from what Oi remember of the bhoy, he didn't want no callin' to the bars round here."

A friend once called to see Mr. Choate on a broiling summer day, and was surprised to find the great man working in an office in which there was a big fire burning. Mr. Choate noticed that his visitor appeared to be uncomfortable, and asked him if he found it too warm. "Warm?" replied the other, "why, it's as hot as an oven." "Indeed?" said Mr. Choate, "I'm sorry you find it so; but then it ought to be as hot as an oven, for you see, I make my bread here."

While a noted wit, however, Mr. Choate can be in no little measure sarcastic. The story goes that some time ago he was much interested in a young gentleman who he wished to go in for the law; but the young fellow had an idea that nature intended him for an artist, and asked Mr. Choate to see some of his paintings. In the course of their conversation he remarked : "No law for me, thank you. I am wedded to my art." "Um," said the great lawyer, quietly glancing at the pictures, "you need not let that discourage you—you have ample grounds for a divorce."

Perhaps Choate's favourite story, however, judging by the number of times he has related it at legal gatherings, is the one which illustrates the view held by some advocates concerning the knowledge of the law possessed by judges. "Mr. Jones, Mr. Jones," said the wearied President of the United States Supreme Court, "you

must give this Court credit for knowing *something*." "That's all very well," replied the advocate (who came from a Western State), "but that's exactly the mistake I made in the Court below!"

And he is also rather fond of telling this story as a little lesson for those with a leaning towards litigation. "It's this way," explained the client. "The fence runs between Brown's place and mine. He claims that I encroach on his land, and I insist that he is trespassing on mine. Now, what would you do if you were in my place?"

Lawyer: "If I were in your place, I'd go over and give Brown a cigar, have a drink with him, and settle the controversy in ten minutes. But, as things are, I advise you to sue him by all means. Let no arrogant, domineering, insolent pirate like Brown trample on your sacred rights! Assert your manhood and courage. I need the money!"

Another of Choate's stories relates to a Texas judge before whom a prisoner was brought charged with horse-stealing. The judge promptly sentenced the prisoner to be hanged, but his lawyer interrupted.

"You can't hang this prisoner according to law, your Honour," he said.

"Guess you're right," said the judge. "Well, I'll discharge him; and I guess it's up to the boys to hang him according to the regular custom."

When Andrew Jackson, the seventh President of the United States, was a young man he practised at the Bar. It was his habit to carry in his saddle bags when he attended Court a copy of Bacon's "Abridgment," and to make frequent appeals to it in his cases. The precious book was always done up in coarse brown paper, and the unwrapping of the volume was a very solemn function as performed by Jackson.

During a certain trial on one occasion, however, a fellow-lawyer procured a piece of bacon the size of his book, and while Jackson was addressing the Court, he slipped out the bacon from its wrapping, and substituted

it for the legal manual. At length Jackson had occasion to appeal to Lord Bacon. While still talking he raised the bearskin flap of his saddlebags, drew out the brown paper package, carefully untied the string, unfolded the paper with decorous gravity, and then, without looking at what he had in his hand, exclaimed triumphantly :

“ We will now see what Bacon says ! ”

What wonder that the Court-room rang with laughter at his expense.

Rufus Choate, lawyer, orator and statesman, who died in 1859, was, of course, an equally brilliant advocate. He rarely failed to show mental supremacy anywhere, and generally came off with flying colours from any play of wit with judge, lawyer or witness. But occasionally he found his match, and was silenced. In an important assault and battery case at sea, Dick Barton, chief mate of the clipper ship *Challenge*, was on the stand ; and Choate badgered him so for about an hour that Dick got his salt water up, to quote a contemporary description, and hauled by the wind to bring the keen Boston lawyer under his batteries.

“ The night was dark and rainy,” said Dick, at the beginning of his testimony.

Suddenly Choate asked him : “ Was there a moon that night ? ”

“ Yes, sir.”

“ Ah, yes ! a moon.”

“ Yes, a full moon.”

“ Did you see it ? ”

“ No, sir.”

“ Then how do you know there was a moon ? ”

“ The *Nautical Almanac* said so, and I will believe that sooner than any lawyer in the world.”

“ What was the principal luminary that night ? ”

“ Binnacle lamp aboard the *Challenge*.”

“ Ah ! you are growing sharp, Mr. Barton.”

“ What in blazes have you been grinding me this hour for—to make me dull ? ”

"Be civil, sir! And now tell me in what latitude and longitude you crossed the equator."

"Oh, you're joking!"

"No, sir, I am in earnest, and I desire an answer."

"Which is more than I can give."

"Indeed! You are the chief mate of a clipper ship, and unable to answer so simple a question?"

"Yes! —the simplest question I ever had asked me. I thought every fool of a lawyer knew there is no latitude at the equator."

That shot silenced the great lawyer.

It is, however, scarcely correct, perhaps, to describe Mr. Joseph Choate as "the wittiest son of the States," for he must share the honour with Mr. Chauncey Mitchell Depew, who practised at the Bar for several years in the 'sixties before he deserted the law for political and commercial labours. His favourite story is one against himself. "I have received," he says, "many compliments on my skill at after-dinner speaking, but the naïvest compliment of all came from an up-State farmer. 'Senator,' said he, 'you might have typhoid and recover, you might have pneumonia and recover, and you might have yellow fever and recover; but if you ever get lockjaw you'd burst.'"

America is proud of Depew, and has every reason to be so. He is not only one of the shrewdest business men in the States, but a clever lawyer, a skilful politician, and an orator who has few equals. Furthermore, he is a born humourist.

"After-dinner speaking," he said recently, "is not an art; it is a gift. A man once came to me and said: I see how you make your speeches. It is quite easy. I noticed you to-night. First you played with your cigar, but did not light it; that caught the attention of the listeners. Then you threw the cigar down, while making a gesture; that fixed their attention. Lastly, you put your thumb in your waistcoat pocket, and everybody leaned forward and thought you were going to bring out notes; that held their attention." 'All

right,' I said. ' You get your cigar and look after your thumb, and you will be a great speaker.' "

One of Depew's best stories is the story of the spotted dog, which, as a boy, he bought from a local dog-dealer. " The next day it was raining," he says, " and I took the dog out into the woods, but the rain was too much for him. It washed the spots off. I trotted the dog back to the dealer. ' Look at this animal,' I said. ' The spots have all washed off.' ' Great guns, boy ! ' he replied. ' There was an umbrella went with that dog. Didn't you get the umbrella ? ' "

Depew says his father was a frugal and saving man, who never approved of wasting anything, including time. " One night he went to a prayer meeting. The brethren were backward. After a long wait my father rose and said :

" ' It is a shame to waste all this valuable time. Will not some brother tell his experiences ? '

" No one rose, and my father continued : ' Will someone lead us in prayer ? '

" There was no response to this appeal, and my father said : ' In that case I will improve the time by making a few observations on the tariff.' "

It was Depew who, during a former visit to this country, spoke thus to young men : " If you are married you will have just as much time as if you were single—if you know how to find it. I have known men to pick up a liberal education while waiting for their wives to get ready to go out."

Another popular story which Depew tells is that concerning a man out West who ordered a patent chicken coop. The railroad was a small one, and on the day the coop was expected to arrive he set out with a dray to fetch it from the freight office. He reached the railroad station, which he had never seen before ; no one was in sight, but there was the chicken coop, and with a man's help he soon had it on the dray and set off home again. A hundred yards or so he met a man in blue uniform. " Hey, there ! " said the chap excitedly, " what the

dickens have you got on that dray ? ” “ My new chicken coop,” was the reply. “ Chicken coop be hanged ! That’s Mudby Junction ! ”

Perhaps one of the best stories of the American Bar is that told of Chester I. Reed, who was appointed a judge of the Superior Court in 1867. Sometimes, when he grew impatient, Reed spoke with great frankness, as the following story shows. When he was at the Bar, one of the judges was about to leave the Bench, so the Bar bought a handsome gold-headed cane, and deputed Judge Reed to make the speech and presentation. The judge headed the procession, holding the cane tucked away under his coat behind with one hand. He said : “ May it please your Honour, on the—er—er—eve of your—er—er departure, we all—er—er having the utmost feelings of kindness for you, it has fallen to my lot—er (then hauling out the cane)—here, take your darned old cane.”

Two more good stories of the American Bar concern Judge Colby, at one time prosecuting attorney in Bristol County, U.S.A., and a well-known advocate, Mr. Timothy Coffin. A man was complained of for being a common drunkard. Mr. Timothy Coffin defended. The evidence was that he drank six glasses of liquor a day. Mr. Coffin said he thought that the prisoner ought to be discharged, “ for if drinking six glasses a day makes a man a common drunkard, may the Lord have mercy on brother Colby and myself.”

On another occasion Coffin was very anxious to obtain a delay in a case which came up one morning, and, after several ineffectual appeals to the opposite counsel, made an affidavit as to the severe exhaustion he was in, having for many days and nights been in constant attendance on his mother, who was very ill. After he had read the affidavit, his mother, who happened to be attending Court without his knowledge, and who was in the gallery, exclaimed, so that all heard her : “ Timothy, how often have I flogged thee for lying ? ”

The late Judge Gary, of Baltimore, who in his younger

days was a member of the State Legislature, was noted for his quickness at repartee. On one occasion he had introduced a Bill that proved very obnoxious to several members of the opposing faction. After adjourning, one of the discontented came rushing up to him in a great state of excitement. "Look here, Gary," he exclaimed, "I'd rather blow my brains out than advocate such a measure." "My dear sir," replied Gary, with a twinkle in his eye, "you flatter yourself on your marksmanship."

A young graduate in law once wrote to Judge Gary, asking what chance there was for "an honest young lawyer, who is a Republican in politics." "Well," came the reply, "if you are a Republican, the game laws here will protect you, and if you are an honest lawyer you will have no competition."

It was Judge Gary who was rather fond of telling the story of a certain Canadian case, in which a lady defended an action for a large sum of money which she felt she was not morally entitled to pay. When it looked as if the case would go against her, she sold all her real estate and put the proceeds, some 15,000 dollars or more, in her pocket-book—which, in her case, as is the custom with some women, was her stocking. The judgment was given against her, and because she would not pay nor tell where the money was she was sent to gaol for a year. Her counsel tried to get her released. The following conversation formed part of the proceedings : "You admit," said the judge, "that this woman has had property to the value of 15,000 dollars ?" "Yes, your honour," said the counsel. "And you will admit that she sold the property and put the money in her stocking ?" "Yes, my lord." "And do you mean to tell me that the arm of the law is not long enough to reach it ?"

Many good stories are told of the late Thomas Nolan, a New York lawyer, whose witty retorts furnished merriment for many gatherings of lawyers. At one time Nolan was counsel for a poor widow who was suing a construction company for damages by reason of the death of her husband. The case had been placed on the "day calendar,"

but had been frequently postponed. Accordingly, by the time Mrs. Casey had paid her fifth call she was in an extremely perturbed state of mind, and therefore the tones of Nolan's rich brogue were more than usually fervid as he fought against the sixth adjournment.

"I am extremely sorry," said Judge Dugro, "but your opponent has shown me good cause for the adjournment. The case will therefore go over until to-morrow."

"Very well, your Honour," said Nolan, suavely; "but might I ask wan personal favour of this Coort?"

"Certainly, Mr. Nolan."

"Will your honour kindly sthep down to my office and just tell Mrs. Casey that you have adjoorned the case?"

It was Judge Lord, an American legal celebrity of Massachusetts, who, when a lawyer in a particular case said that the plaintiff ought not to have certain fees because he put in a certain number of questions that were useless, replied: "I am afraid that few lawyers would get their fees if they were prohibited from putting useless questions."

Mr. _____ met him one day, and said: "I see, Judge Lord, that the Supreme Court has overruled you in the case of _____ *v.* _____, but you need feel no concern about your reputation." "No," he replied, "I don't; I'm only concerned about the reputation of the Supreme Court."

Counsel was once very persistently following up a long and tiresome cross-examination, when the judge interfered, and said much of it was immaterial. The counsel replied that it was his right. "Oh, yes," said Judge Lord, "it is your right, but if everyone insisted on having his rights what an unhappy world this would be."

The moral of the following story, which is rather a favourite in American legal circles, may be that it is better to heed the warnings of the "still small voice" before it is driven to the use of the telephone.

A New York lawyer, gazing idly out of his window,

saw a sight in an office across the street that made him rub his eyes and look again. Yes, there was no doubt about it. The pretty stenographer was sitting upon the gentleman's lap. The lawyer noticed the name that was lettered on the window, and then searched in the telephone book. Still keeping his eye upon the scene across the street, he called the gentleman up. In a few moments he saw him start violently and take down the receiver.

"Yes," said the lawyer through the telephone, "I should think you would start."

The victim whisked his arm from its former position and began to stammer something.

"Yes," said the lawyer severely, "I think you'd better take that arm away. And while you are about it, as long as there seems to be plenty of chairs in the room ——"

The victim brushed the lady from his lap, rather roughly it is to be feared. "Who—who the devil is this, anyhow?" he managed to splutter.

"I," answered the lawyer in deep, impressive tones, "am your conscience!"

This, too, is an equally popular after-dinner yarn on the other side. The lawyer eyed the woman in the witness box in patent despair. Then he rallied visibly.

"You say, madam," he began, "that the defendant is a 'sort of relation' of yours. Will you please explain what you mean by that—just how you are related to the defendant?"

"Well, it's like this," replied the witness, beaming upon the Court. "His first wife's cousin and my second cousin's first wife's aunt, married brothers named Jones, and they were cousins to my mother's aunt. Then, again, his grandfather on his mother's side and my grandfather on my mother's side were second cousins. And his stepmother married my husband's stepfather after his father and my mother died, and his brother Joe and my husband's brother Harry married twin sisters. I ain't ever figured out just how closely related

we are, but I've always looked on him as a sort of cousin."

"Quite right," said the lawyer feebly.

District Attorney Jerome, at a dinner in New York, a short time ago, told a story about honesty. "There was a man," he said, "who applied for a position in a dry goods house. His appearance wasn't prepossessing, and references were demanded. After some hesitation he gave the name of a driver in the firm's employ. This driver, he thought, would vouch for him. A clerk sought out the driver, and asked him if the applicant was honest. 'Honest?' the driver said. 'Why, his honesty's been proved again and again. To my certain knowledge he's been arrested nine times for stealing and every time he was acquitted.'"

A member of the Chicago Bar also told this story at a lawyers' dinner in Indiana :

A farmer's son in Illinois conceived a desire to shine as a legal light. Accordingly he went to Springfield, where he accepted employment at a small sum from a fairly well-known lawyer. At the end of three days' study he returned to the farm.

"Well, Bill, how d'ye like the law?" asked the father.

"It ain't what it's cracked up to be," responded Bill gloomily. "I'm sorry I learned it."

Another favourite story concerns a witty American counsel, opposing another named Gale, who took amusing advantage of the latter's cognomen. "I always like," he said after Gale had addressed the jury, "however tired I may be, to hear my brother Gale, as he has such a big, strong, hearty breeze voice; but I remember many years ago, when I stood as a boy on my father's farm, I heard a great strong gale blowing through the twelve sturdy oaks. It made a good deal of noise among the branches, but the gale soon subsided, the oaks stood up as strong as before, and there was nothing of it left."

Very smart was the reply of an impecunious young lawyer, who received the following letter from a tailor to whom he was indebted :

“ DEAR SIR,—Kindly advise me by return mail when I may expect a remittance from you in settlement of my account.

“ Yours truly,
“ J. SNIPPEN.”

The follower of Blackstone immediately replied :

“ DEAR SIR,—I have your request for advice of a recent date, and beg leave to say that not having received any retainer from you I cannot act in the premises. Upon receipt of your cheque for 250 dollars I shall be very glad to look the matter up for you, and to acquaint you with the results of my investigations. I am, sir, with great respect, your most obedient servant,

“ BARCLAY B. COKE.”

It was out in Kansas that a man brought an action to recover some land that had been outrageously filched from him. His case was a good one, but the other side had doctored its witnesses—had even doctored the plaintiff's witnesses, too—and up to that time, when he stood in Court, not a jot or tittle of testimony in the plaintiff's favour had been recorded.

But as soon as he was sworn he turned to the judge, and said :

“ Sir, I brought this suit, and yet the evidence, excepting my own, is all against me. Now I don't accuse anyone of lying, but these witnesses are the most mistaken lot of fellows I ever saw. You know me. Two years ago you sold me a hoss for sound that was as blind as a bat. I made the deal and stuck to it, and this is the first time I have mentioned it. When you used to buy my grain, judge, you stood on the scales when the empty waggon was weighed, but I never said a word. Now, do you think I am the kind of man to kick up a rumpus and sue a fellow unless he has done me a real wrong ? Why, judge, if you'll recall that sheep speculation you and me—”

But at this point the judge, very red in the face, hastily decided the case in the plaintiff's favour.

"I had a case," says an American lawyer, "in which a man was arrested for stealing a cow. He was held over for the grand jury on preliminary hearing, and he sent for me. His letter ran something like this :

' DERE SIR,—I am in Jale, and the man sayes I am likely to go to the pen. I did not steel the cowe, and I am perfectly innercent. Please gete me out, if it are the last act of yure life. This is not a nice place. Please do get me out. I think I can pay you some day. I did not steel the cowe. Tell the judge that. And if you get me off I am willing to do all I can for you. If you do I will give you the cowe.—Yours truly,

' BILL SMITH.' "

A negro was brought up on charge of shooting a dog, and the following dialogue took place :

Magistrate : "Did you shoot that dog with malice aforethought?"

Nigger : "No, sah ! Didn't have no mallets. Shot him with a gun."

Magistrate : "You do not understand. I will put it in another way. Did you shoot him in self-defence?"

Nigger : "No, sah ; I shot him in de tail when he jumped de fence."

There is no end, however, to stories of nigger trials, all more or less of doubtful authenticity.

Uncle Eph was before the Court on the same old charge. After the evidence, the judge, with a perplexed look, said : "But I cannot comprehend, Ephraim, how it was possible for you to steal those chickens when they were roosting right under the owner's window, and there were two vicious dogs in the yard."

"It wouldn't do you a bit of good, judge, for me to 'splain how I cotched 'em," said Eph, "you couldn't do it if you tried forty times, and yer might get a hide full of buckshot de berry fust time yer put yer leg over

de fence. De bas' way fer yoer to do, judge, is fer yer to buy yer chickens in de market."

Here are two or three other chicken stories. A negro, who was suspected of stealing chickens, was arraigned before the minister and elders of his chapel. The old negro who was called as a witness was asked by the pastor if he thought that brother Sambo, the accused, was the sort of man who would be likely to steal chickens.

"Well, pastor," replied the witness, "I should not exactly like to say that, but if I were a chicken, and brother Sambo were around, I should roost high."

The coloured boy was up in the Children's Court for the fifth time on charges of chicken stealing. This time the magistrate decided to appeal to the boy's father.

"Now see here, Abe," said he to the old darky. "This boy of yours has been up in court so many times for stealing chickens that I'm sick of seein' him here!"

"Ah don' blame you, sah," returned the father. "Ah's sick ob seein' 'im hyah, too!"

"Then why don't you teach him how to act? Show him the right way, and he won't be coming here!"

"Ah has showed 'im de right way, sah," declared the old man earnestly. "Ah has suddenly showed 'im de right way, but he somehow keeps gittin' caught comin' 'way wid dose chickens!"

His Honour: "You are charged with chicken stealing. Have you any witnesses?"

Prisoner: "I have not. I can't steal chickens before witnesses."

"Do you know of any mitigating circumstances in your case?" said a Texas justice to Sam Johnsing, accused of stealing.

"Lemme off dis time."

"Is it your first offence?"

"Fust offence, sah."

"How did you manage to get the chickens so cleverly, without disturbing the dog in the yard?"

"Dat comes from practice, your worship," said Sam, who felt flattered by the remarks of the Court.

" You admit you stole the melons ? " said the judge.

" Oh, yes, suh, I stoled 'um."

" And yet you ask for mercy ? "

" Yes, suh, kaze de white man kotched me fo' I had a chance ter eat um ! "

Referring to negroes, the following story of George Clarke, a celebrated negro minstrel, is an example of the pitfalls to which the too clever lawyer exposes himself. On one occasion, when being examined as a witness, Clarke was severely interrogated by a lawyer.

" You are a minstrel in the business, I believe ? " inquired the lawyer.

" Yes, sir," was the reply.

" Is not that rather a low calling ? "

" I don't know but what it is, sir," replied the minstrel ; " but it is so much better than my father's that I am rather proud of it."

The lawyer fell into the trap.

" What was your father's calling ? " he inquired.

" He was a lawyer," replied Clarke, in a tone that sent the whole Court into a roar of laughter as the discomfited lawyer sat down.

Stories of horse-stealing cases are almost as numerous as those concerning stolen chickens.

A West Virginia judge arraigned a man for stealing a horse, denounced him as a persistent law-breaker, and then sentenced him to ten years' hard labour in the State prison.

" Have you anything to say ? " he asked, when he was through.

" No," said the sentenced one ; " except that it strikes me you are pretty darned liberal with other people's time."

Here is a story of a white man in America who was arraigned before a coloured Justice of Peace for killing a man and stealing his mule. The comparative enormity of such crimes varied with the soil upon which they were committed. In this case the deed was done in Arkansas, near the Texas border.

There was some rivalry between the States, but the coloured justice tried to preserve an impartial frame of mind.

"We's got two kinds ob law in dis yere Cawt," he said.
"Texas law an' Arkansas law. Which will you hab?"

The prisoner thought a minute, and then said he would take the Arkansas law.

"Den I discharge you fo' stealing de mule, an' hang you fo' killin' de man!"

"Hold on a minute, judge," called the prisoner. "I would rather have the Texas law."

"All right. Under de law ob Texas I fine you fo' killin' de man, an' hang you fo' stealin' de mule!"

At the trial of a Mexican cowboy on a charge of horse-stealing, a jury had been gathered, put into a room, and some time later a dozen men burst in demanding the verdict.

"Not guilty," answered the foreman.

Laying hands on pistols, the intruders slammed the doors with: "You'll have to do better than that. Try again."

In half-an-hour one of the men opened the door once more: "Your opinion, gentlemen?"

"Guilty."

"Correct! You can come out. We hanged him an hour ago."

Apropos of horses, Judge Gaynor, the late mayor of New York, was once talking about the fondness of American men for tacking official titles on to their names. "I once met," he said, "a man who called himself Judge Green, and I ventured to ask him if he were a United States judge or a circuit court judge.

"'I ain't neither,' he told me. 'I'm a judge of hosses!'"

They have some quaint ideas, however, out West of law, the dignity of the profession, Court procedure, and evidence. Up in Clay county, in the land of feuds, a Christmas frolic ended in a tragedy. Old Mrs. Philpott was a witness.

"Tell us about the fight," said the judge.

"I never seed no fight."

"Well, then, tell us what you did see."

"Cy Sewell he gives a Christmas dance, and me and a lot of others wuz thar. The boys and girls got to dancin', and as the boys went dancin' round and round they got slappin' each other, an' finally one boy he slapped another boy harder than he 'lowed to an' knocked him down. An' the boy that got knocked down he jumped up an' jerked out a big knife and wacked the fellow that knocked him down right across the middle, from side to side. An' then the brother of the fellow what got the cut he pulled a British bulldog and he leg go six 44's right squar at the fellow that had the knife ; and just then Bill Smiley—Bill's a cousin of Jake Haynes, what gat shot—came runnin' out'n old Man Sewell's room with a double-barrel shotgun an' let off both barrels in the crowd, an' old Sewell he got excited an' jerked a Winchester rifle out'n from under the bed an' went to pumpin' lead into the gang ; an' by that time the house was full of smoke an' flashin' an' hollerin', an' I seed thar was going to be a fight, an' I left the house."

Judge Blackman was very particular in requiring attorneys to observe the rules of practice. In a certain cause lawyer T. had sued on a writ of *capias*. Lawyer L. moved to quash the writ, and was proceeding with his argument when the Court interrupted him :

"What are you reading from, sir ? "

"From a work of logic, your honour."

"Did you give Brother T. notice that you were going to read from a work of logic ? "

"Of course not, your honour."

"Are you aware, sir, of the rule of Court which requires notice to be given of matter which would be liable to surprise the attorney on the other side ? "

"Yes, your honour ; but the rule has no application to a matter of this kind."

"I don't know, sir ; I don't know. I know of nothing that would surprise Brother T. more than logic, and if

you haven't given him notice that you are going to read from a work of that kind I can't permit you to read it."

Lawyer L. proceeded with his argument, and presently he was again interrupted by the Court.

" What are you reading from now, sir ? "

" 'Green's grammar,' your honour."

" Did you give Brother T. notice that you were going to read from 'Green's Grammar' ? "

" Of course not, your honour."

" Well, sir, I know of nothing in this world, aside from logic, that would surprise Brother T. more than grammar, and if you haven't given him notice that you are going to read from 'Green's Grammar' I can't permit you to read it, and I shall deny your motion with costs."

The rigid observance of old English rules in the South Carolina Courts, and a neglect of the same by Mr. James L. Petigru, gave rise to the following passage :

" Mr. Petigru," said the judge, " you have on a light coat. You can't speak."

" May it please the Bench, I conform strictly to the law. Let me illustrate : The law says that the barrister shall wear a black gown and coat, and your honour thinks that means a black coat ? "

" Yes," said the judge.

" Well, the law also says the sheriff shall wear a cocked hat and sword. Does your honour hold that the sword must be cocked as well as the hat ? "

He was permitted to go on.

The assurance and eloquence of the American lawyer, however, is proverbial, although the latter at times is a trifle mixed. Where, for instance, will one find a more amazing peroration than the following, which, according to that entertaining book of Marshal Brown's, "Bulls and Blunders," was delivered by a backwoods attorney in the last meshes of tangled eloquence.

" Gentlemen of the jury, you sit in the box as the great reservoir of Roman liberty, Spartan fame, and Grecian polytheism. You are to swing the great flail of justice and electricity over this immense community in

hydraulic majesty and in conjugal superfluity. You are to ascend the deep arcana of nature and dispose of my client with equiponderating concatenation and reverberating momentum.

“ Such, gentlemen, is your sedative and stimulating character ; my client is only a man with domestic eccentricities and matrimonial configuration, not permitted, as you are, gentlemen, to bask in the primeval and lowest vales of society ; he has to endure the red-hot sun of the universe, seated on the heights of nobility and feudal eminence ! He has a wife of matrimonial propensities that henpecks the remainder of his days with soothing and bewitching verbosity. He has a family of domestic children that gather around the fireside of his peaceful domicile in tumultuous consanguinity and cry with screaming and reverberating momentum for bread, butter and molasses. Such, gentlemen, is the flowing and overwhelming character and defearance of my client, who stands here indicted by this persecuting pettifogger of this court, who is as much inferior to me as I am exterior to the judge, and you, gentlemen of the jury.

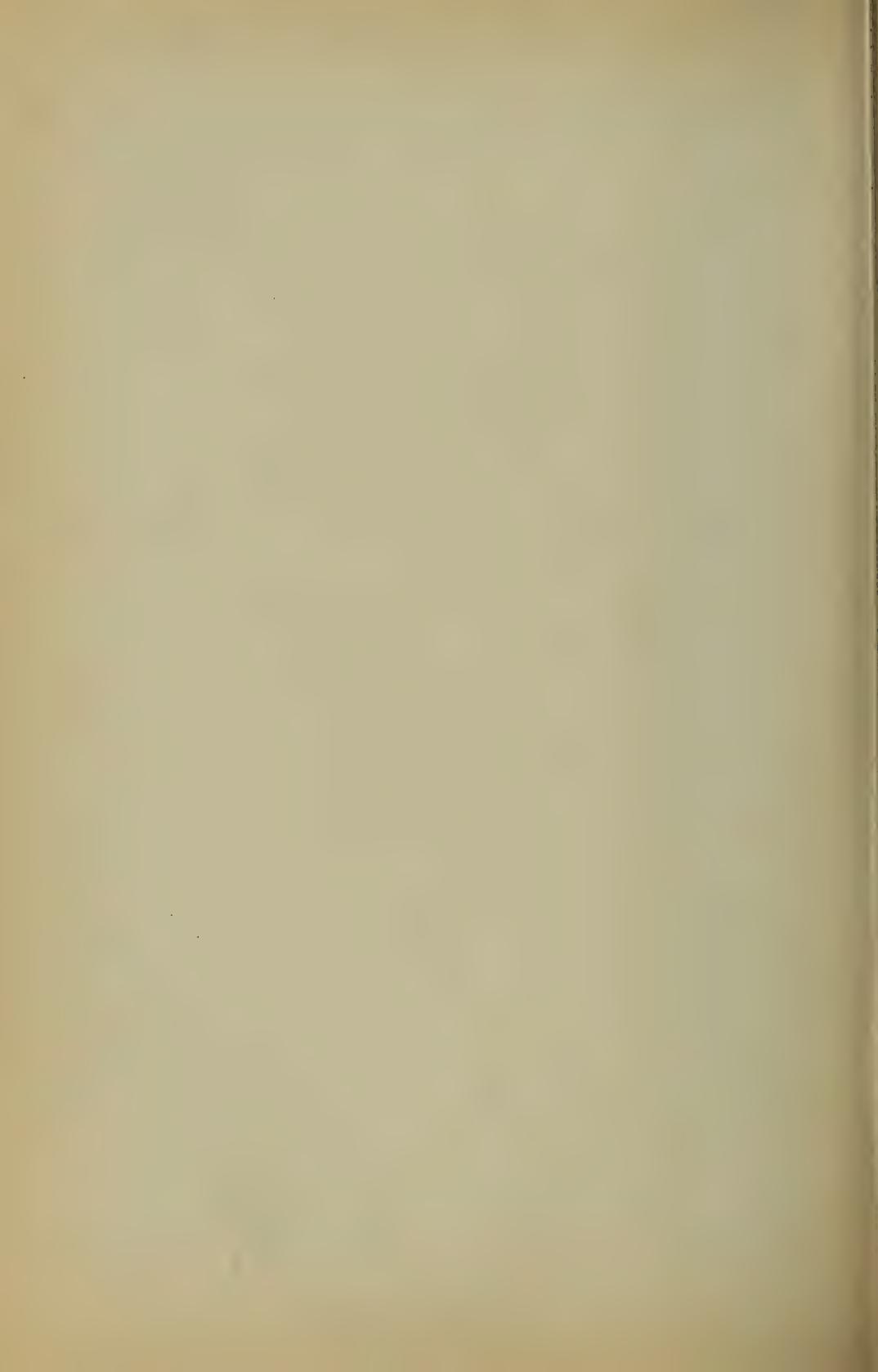
“ This borax of the law has brought witnesses into this court, who swore my client stole a firkin of butter ; but I say they swore to a lie, every one of them, and the truth is concentrated within them, and I will prove it by a learned expectoration of the principles of the law.

“ Now, butter is made of grass, and it is laid down in St. Peter Pindar, in his principles of subterraneous law, pages 18 to 27, inclusive, the grass is couchant and levant, which means, in our obicular tongue, that grass is of a mild and free nature, and therefore you see that my client had a right to grass and butter both. Again, butter is made of grease, and Greece is a foreign country situated in the far-off and emancipated country of Liberia and California, and therefore my client is out of the benediction of this Court and cannot be tried in this horizon.

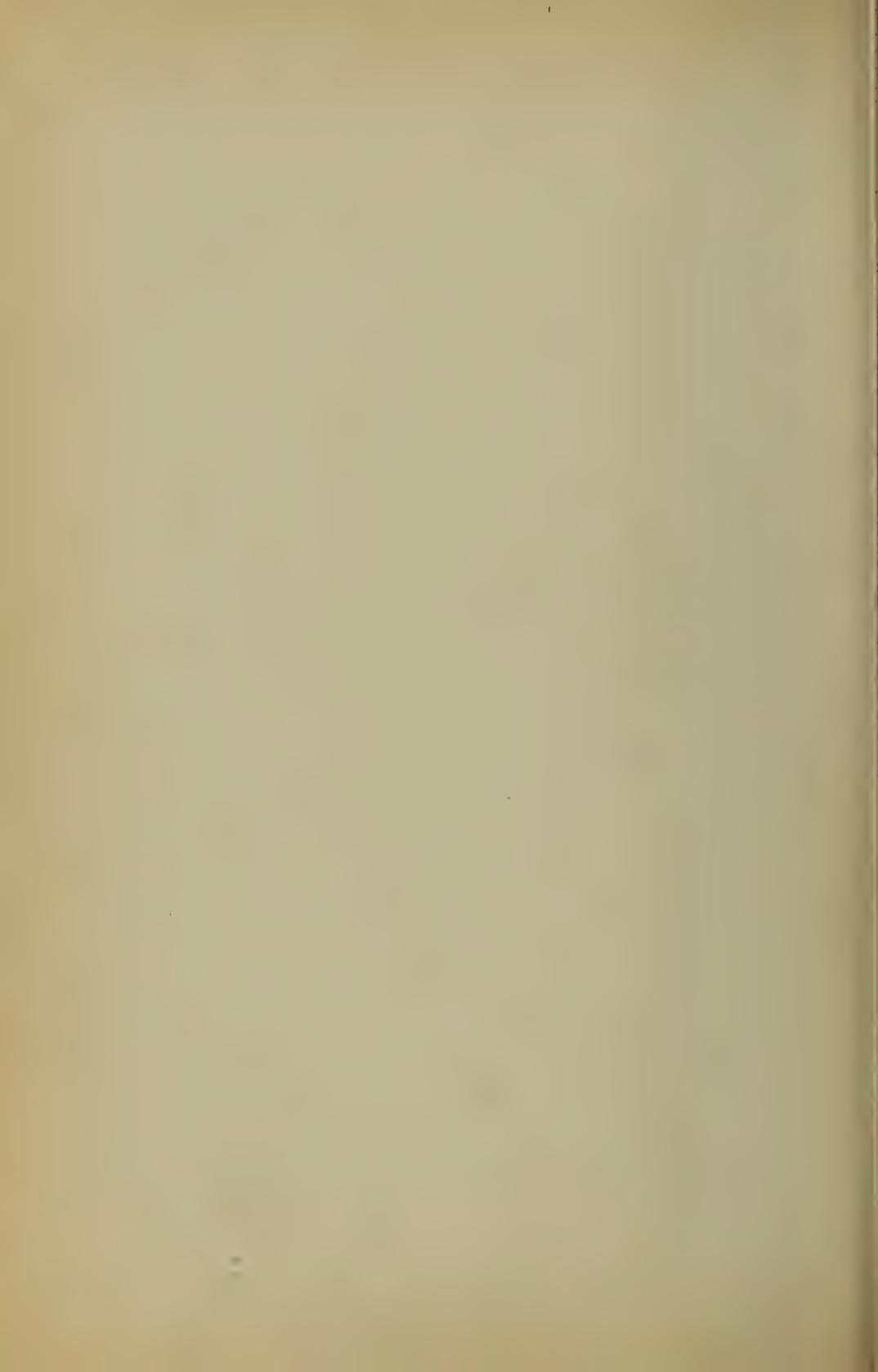
“ I will now bring forward the *ultimatum respondentis* and cap the great climax of logic by quoting an inconceivable maxim of law laid down in Latin in Hannibal,

Hudibras, Blackstone, and Sangrado. It is this: *heck, hock, morus, multicalus, emensa et thoro guta bega sentum*; which means, in English, that ninety-nine men are guilty where one is innocent. It is therefore your duty, gentlemen, to convict ninety-nine men first, then you come to my client, who is innocent, and acquit according to the law.

“ If these great principles shall be duly appreciated by this court, then the great north pole of liberty that has stood so many years in pneumatic tallness shall continue to stand the wreck of the Indian invasion; the pirates of the Hypoborian seas, and the marauders of the Aurora Boliver. But, gentlemen, if you convict my client, his children will be obliged to pine away in a state of hopeless matrimony, and his beautiful wife will stand alone and deserted like a dried-up mullen stalk in a sheep pasture.”



HUMOURS OF THE DOCK



CHAPTER VIII

HUMOURS OF THE DOCK

“Lawyers and painters can soon make black white.”—*Proverb.*

The plausibility, ingenuity, coolness and philosophy exhibited by prisoners and defendants at times in their efforts to explain to the judge, court and jury their shortcomings, certainly provides one of the most entertaining phases of legal humour. The arrant rogue, indeed, is often a man of considerable wit and resource.

Take, for instance, the case of the shoemaker who was convicted at the Clerkenwell Sessions, a short time ago, of having attempted to burglariously enter a house in Fulham. With an injured air of innocence he thus addressed the jury :

“Gentlemen of the Jury, I am a man with a past—in fact, a burglar with a knowledge of how to do things properly. For this reason I want you to acquit me. The police say I did this in the most clumsy manner, but, gentlemen, you must remember that I know what to do if I want to get into a house, and I certainly should not set about it in such an unworkmanlike fashion as the officers suggest. Now, gentlemen, if you live in Fulham, or know the district, you know that nearly all the houses are little more than lath and plaster, and you could open any of them with a small pocket-knife. Then, why use a jemmy? It is not necessary. All you have to do is to slip quietly round the back with a thin knife, raise the sash, climb in, shut the window down and fasten the catch, and there you are—you can do as you like. And it is not so risky as pushing in the front door. That makes a noise, and, besides, it takes something to force

the lock, and there is the top and bottom bolts. Now, gentlemen, do you think I should take all that unnecessary trouble at the front door when I could do it so easily at the back ?

“ I tell you what it is, gentlemen. I am too well known to the police, and it’s a got-up affair on their part. My picture is on the papers, my photograph is at every police-station, and I am an ex-convict. That is why I’m here. It’s nothing new. I’ve had twelve months for doing nothing before, and I also had six months for the same thing. That’s because my face is so well known to the police. When I was before the magistrate he asked me if I had ever been helped by the Prisoners’ Aid Society. ‘ No,’ I answered. ‘ I don’t want any so long as I can make my own burglar’s tools.’ ”

But a hard-hearted warder proved that the prisoner had been in and out of prison for fourteen years, and the unsympathetic judge gave him another two years.

Another burglar, discovered by a policeman in the residence of a spinster lady, created considerable hilarity in Court by his persistence in the defence that he was really desperately in love with the lady, and they had arranged to be married, only his visits had to be kept secret, as their families objected most absurdly to the union. He persisted in this explanation most solemnly, apparently quite ignoring the fact that, without the lady’s indignant protestations that there was not a word of truth in it, his looks were so hideous that it was impossible to believe that anyone could have regarded him as a prospective husband.

“ What would any one of you have done, gentlemen,” demanded another prisoner, accused of burglary, “ if you had been in my place ? ”

He had, he explained, been walking down a retired street in a London suburb very late one night, when he suddenly smelt an alarming escape of gas. His nose led him to a certain house. The gas was certainly coming through the front door keyhole.

“ I raised my hand to knock, and then reflected,” he

explained. " It was a bitterly cold night, and the people inside were no doubt warm in bed, and probably snatching their needed rest for the next day's labours. I hesitated to arouse them ! "

So he slipped back the catch of a window with a knife and entered—to see to the gas. In the kitchen he found an apple tart on the table, which he ate, with such alarming results that he was obliged to look for brandy. He found a bottle of whisky instead, and that was how he was discovered asleep in an armchair in the morning by the servants. The tart was so bad, he declared, that it had deprived him of all power of explanation till that moment in the dock. That was why he had not put matters right before the magistrate. He ate no more tarts for seven years.

And one can almost sympathise with the burglar who, when asked the usual question by the judge, " Have you anything to say before sentence is pronounced against you ? " replied disgustedly : " The only thing I'm objecting to is bein' identified by a man wot kep' his head under the bedclothes the whole time. That ain't English justice."

It was a poser which an aged man charged with stealing a pig put to the Judge who tried him. In the usual preliminary words the Judge said :

" It is a shame that a man of your age should be giving his mind up to stealing. Do you know any reason why sentence should not be pronounced on you according to the law ? "

" Now, my lord," was the reply of the aged sinner, " this is getting to be a trifle monotonous. I would like to know how a fellow can manage to please you Judges. When I was only seventeen years old I got three years, and the Judge said I ought to be ashamed of myself for stealing at that age. When I was forty I got five years, and that Judge said it was a shame that a man in his very best years should steal. And now, when I am seventy years of age, here you come and tell me the same old story. Now, I would like to know what year of a man's life is the right one, according to your notion ? "

Somewhat sprightlier humour was evinced by a man convicted of horse-stealing. Said the Judge to him very sternly : "Yours is a very serious offence ; fifty years ago it was a hanging matter."

"Exactly so," coolly rejoined the fellow, with a certain logical reasonableness ; "and fifty years hence it mayn't be a crime at all. Why not defer sentence for a while, and see how things work out ?"

This is equal to the story of a man who, having been capitally convicted at the Old Bailey, was, as usual, asked what he had to say why judgment of death should not pass against him. "Say !" replied he ; "why, I think the joke has been carried far enough already, and the less that is said about it, the better ; so, if you please, my lord, we'll drop the subject."

The comicality of a defence, however, has often proved more effective than any eloquence. "I have served terms of seven years' and of three years' penal servitude," declared a prisoner at Liverpool assizes some time back, "and do you, my lord, and you, gentlemen, think that with such a record I should condescend to steal a shirt ?"—a question, demanded in tones of the most deeply injured dignity, which sent the jury and judge into uncontrollable laughter.

"And look at it, gentlemen," he went on, pointing a scornful finger at the garment, which had been produced in evidence—"look at it, gentlemen. Usher, kindly hold it up. Can you credit that, if I did stoop to steal a shirt, I should steal such a shirt as that ?" Circumstances were unfortunately too strong for the exceedingly particular gentleman, but the sentence was a light one. The prisoner who indignantly repudiates the offence with which he is charged as being a monstrous reflection on his good breeding and culture is often most amusing. A tramp, accused of attempting to break into a Northampton booking-office, "brought down" the Court by his expostulation :

"Would a man of my education and knowledge of the world have tried to commit the offence in the way de-

scribed by the officials ? " he demanded, in tones quivering with injured pride. " Absurd ! "

A man charged at Stratford with cruelly beating a donkey urged in excuse a plea which might have found a weak spot in the breast of a teetotal magistrate. He declared that the depravity of the donkey was responsible for the chastisement it got.

" It druv' me fair wild, your worship," he explained. " You see, it's a new donkey as I've got, an' it would stop at every blessed pub we come to ! "

An instance of an accused person exciting leniency in the judicial breast by virtue of a waggish rejoinder is that of a Scottish lad who was charged with stealing from a doctor's shop. The Judge was much struck with his respectable appearance, and asked him why he was guilty of such a contemptible act.

" Weel, ye see," replied the prisoner, " I had a bit pain in my side, and my mither tauld me to gang to the doctor's and tak' something."

" Oh, yes," said the Judge, " but surely she didn't tell you to go and take an eight-day clock ? "

The prisoner was evidently nonplussed, but only for a moment. Turning to the Judge, a bright smile of humour stealing over his countenance, he rejoined quickly : " There's an auld proverb that says ' Time and the doctor cure a' diseases,' and sae I thocht——" but the remainder of the proverb was lost in the laughter of the Court.

A prisoner of seventeen, in a Scotch Court, was once charged with picking a gentleman's pocket. The witnesses for the prosecution gave their evidence, and the prosecuting counsel commented on it, and clearly demonstrated the prisoner's guilt. To all this the prisoner listened with great indifference, but when the counsel who defended him stood up to address the jury the prisoner leaned forward with the greatest interest. His counsel eloquently denounced the opposing witnesses and the unreliable nature of their evidence, and warming with his subject exclaimed :

" If this young man had taken the money, where, I ask,

could he have placed it ? Not in his pockets, for you know they were likely to be first examined ! Not in his shoes, for these, too, would for a certainty be examined ! Where, then, I say, gentlemen of the jury, could this lad have stowed away the money ? Where was there a place he could have found to hide it away ? ”

At this point the counsel paused rather longer than usual, and the prisoner fearing that his counsel was actually waiting for assistance, and was at a loss, exclaimed :

“ I put it in here, sir,” showing a secret inside pocket.

Another sally from the dock is characteristically Scottish. It was in a Mid-Lanarkshire town that a local tradesman had come before one of the magistrates on the charge of cutting down a tree situated in the back garden of the house which he tenanted without having obtained the consent of the landlord. The Bailie who was on the Bench chanced to be a pompous, self-opinionated old gentleman, whose legal knowledge was almost nil, yet who was so fond of hearing himself speak that he could not resist the opportunity of lecturing the unlucky persons who were brought before him. “ What wey did ye cut doon the tree ? ” the magistrate inquired sharply, addressing the accused.

“ The tree was quite deid and rotten ever sin’ I cam’ to the hoose, and, as it spiled the look o’ the gairden, I cut it doon. Besides, I didna ken it was ony harm, or I would hae let it alane.”

“ That’ll no’ dae, my man,” said the Bailie severely. “ Ye say ye didna ken that it was wrang, but ignorance of the law is nae excuse for any man.”

“ Weel, Bailie,” replied the culprit gravely, but with the ghost of a sly humorous twinkle in his eye, “ if that’s the case, it’s gey hard on the baith o’ us.”

As an example of Scottish cuteness the following deserves pride of place. A cobbler, described as a notorious offender, who had passed his life in a certain “ Auld Licht ” village unregenerated, was convicted before a Forfar magistrate, who sentenced him to pay a fine of half-a-crown. or suffer twenty-four hours’ imprisonment.

If he chose the alternative it implied his being taken to the gaol at Perth.

The cobbler communed with himself. "I'll go to Perth," he said. "I have business in the town, at any rate."

An official conveyed him to Perth by train, but when he reached the gaol he said he would pay the fine. The Governor found that he would have to take it.

"And now," said the cobbler, "I want my fare home."

The Governor demurred, made inquiries, and discovered that there was no alternative; the prisoner must be sent back at the public expense to the place he was brought from.

So our canny cobbler got the two shillings and eight-pence halfpenny, which represented his fare, transacted his business, and went home triumphant, twopence half-penny and his railway journey the better of his offence.

When the late Mr. Raffles completed his twenty-five years' service as Police Magistrate of Liverpool, an occasion was taken, before commencing the trial of a man in the dock, to felicitate the venerable stipendiary. First a barrister arose and expressed a few words of warm congratulation on the completion of so long a period of honourable and distinguished service, a solicitor followed the barrister, the chief constable followed the solicitor, the chief warder followed the chief constable, a reporter followed the chief warder, a Court usher succeeded the scribe, until everybody had expressed their congratulations. The prisoner had been kept waiting all the time—about three-quarters of an hour. When all had finished, he gracefully addressed Mr. Raffles with the solicitous inquiry: "Am I expected to say a few words of congratulation, your worship?"

The Irish, with their characteristic fund of humour, are often very amusing in their sallies from the dock when they happen to find themselves in that undesirable quarter. An old Irishwoman who made her appearance for the twenty-third time in answer to a charge of drunkenness, endeavoured to ingratiate herself with the presiding

functionary by means of a "bit of blarney." The occasion of her intoxication, she explained, was her boy's birthday. "Just eighteen, your Honour, and a fine strapping boy, with a swate face as it does one good to look upon. He is a fine boy, and, if your Honour wouldn't be offended by my bouldness, he's something like your Honour, too, with a kind heart writ big on his face."

No less characteristically Irish was the laughable remark by an Irishwoman before the late stipendiary magistrate in Glasgow. She had been charged with drunkenness, but "allowed to go" through the clemency of the magistrate, and as she was leaving the bar she replied to him: "Thank you, yer Honour; may you be long spared, and when you die may they take you to where you'll be better appreciated than you've ever been in Glasgow."

In another Irish police-court the magistrate was about to pronounce sentence on an Irishman for the theft of a goose.

"And it is on the oath of thim two witnesses that yer Honour is going to condemn me?"

"Certainly," said the magistrate.

"Oh, murther! to condemn me on the oaths of two spalpeens who swear they saw me take the bird, when I can bring a hundred who will swear they didn't see me do it!"

And it was a quaint reply which another Irishman, charged with bigamy with no less than four wives, made when the Judge, in passing sentence, expressed his wonder that the prisoner could be such a hardened villain as to delude so many women. "I was only thryin'," plaintively said the prisoner, "to get a good wan; an' sure it's not aisy."

A favourite story in the Temple concerning the prisoner charged with being drunk and disorderly concerns a delinquent who, when asked what he had to say for himself, gazed pensively at the magistrate, smoothed down a remnant of grey hair, and said: "Your honour, 'Man's inhumanity to man makes countless thousands

mourn.' I'm not as debased as Swift, as profligate as Byron, as dissipated as Poe, as debauched as—" "That will do!" thundered the magistrate. "Ten days! And, officer, take a list of those names and run them in. They are as bad a lot as he is."

This is probably fiction, but the following has the merit of being true. A prisoner failed to surrender to his bail at Willesden on a charge of drunkenness. Instead, he sent the following letter to the magistrates :

"DEAR JUDGE,—I am deuced sorry not to be able to come to Court this morning, but as a matter of fact my return ticket to Ireland expires to-day, so I must get home. The reason I got tight is that I am not used to the flavour of whisky. . . . Apologising to the policeman and yourself, dear Judge, believe me, always yours, —."

The story calls to mind that of Farmer Fairweight, who came to London on a flying visit, and discovered many things—that omnibuses could go without horses, that you could walk for a whole hour without striking a field or an acquaintance, and, finally, that you couldn't hit a policeman simply because he compels you to move out of other people's way.

As he was being taken to the station he inquired what the policeman intended doing with him.

"You'll find out soon enough," said the policeman, grimly. "Seven days, probably."

"Seven days! An, that's where I have ye, old blue-bottle," chuckled the farmer, triumphantly producing the return half of his ticket. "I've to go back on Monday."

Some interesting sidelights on the coster world were once revealed at the Southwark County Court. A purveyor of winkles was sued by a certain lady for £1 in respect of damage done to a barrow "borrowed" by him without her consent. The plaintiff said she didn't mind the barrow being borrowed, as the defendant had his living to get, but she could not bear to have it "busted" up.

Judge Addison: "You have a free-and-easy style in your neighbourhood."

Plaintiff : " Yes ; and when I went ter git it 'e says : ' If you're not saucy you might git a new 'un ; but if you're cheeky you'll git yer face bashed in. ' "

The defendant, following an ancient precedent, put the blame on his " missus."

The Judge : " You are responsible for what your wife does."

Defendant : " Lor, lummy ! "

The winkle merchant further explained that he " didn't put anyfink on the barrer except abaht two 'under-weight,'" whereupon it " bent up."

'Arry, however, is always ready to enjoy himself, even in Court, and entertain his audience at the same time. One of this class not long ago sued a fellow-coster for selling him bad oysters. In his own effective language : " When I got 'em 'ome, my missus says : ' I say, Bill, them oysters is a bit whiffy.' I looks at 'em, and, blow me, what d'yer think I foind ? There was a few good 'uns on top, and the rest was fit to walk. I put 'em on a stall, and a copper come by. He was a pal o' mine. He smelt 'em—lor, you should a' seen his face ! He says : ' Take 'em 'ome, old 'un ; if you don't they'll crawl there theirselves. If you tries to sell 'em yer'll get locked up for murder.' " These succulent bivalves had changed hands at 5s. per 300. The defendant, who did not appear, had generously promised the plaintiff " two bob for a day's booze " if he won the case. Such are the light-hearted ways of the 'Arry tribe.

It is domestic squabbles, however, which provide police-courts with the most fun. An eccentric and voluble elderly woman sought protection from her husband at the Marylebone Court. She declared that she was afraid of him, as he had threatened to set fire to the house. " What did you do ? " asked Mr. Plowden. " Why, I calls for a bobby to reject him out from doing more violence, and he up with a poker and tongs to knock me brains out. I wilfully rushed at him to perfect myself, and I threw him down, as I might just there, in that corner." " What, poker and tongs and all ? "

"I took the tongs from him and locked him in a room, and left him there. What am I to do with him?" "Just as you did before." "Then," with emphasis, "I'll have to use rough violence." "No, don't harm him." "Well, if you don't give it him I'll do it, swop me bob." Saying which the "unprotected female" stamped her foot and hurriedly left the Court.

There was also a certain gentleman named Worms, who complained to the magistrate of his wife's conduct. This Worms was evidently henpecked, for his good lady, previous to leaving him owing to his extreme ugliness, had severely illtreated him, and he read to the Court a diary of her deeds—a truly heartrending "human document": "June 23rd: Knocked two teeth out, and called me an 'ugly monkey.' (Her plan of action was hardly likely to improve his looks.) August 5th: Scratched my face. August 20th: Threw cups and saucers, and tore my shirt off. August 28th: Beat me with a poker. September 7th: Poker again." The humble Worms could not attain any redress, and was dismissed with the cheering remark that "perhaps his wife would return in a day or two." One unfeeling paper expressed the hope that she would do, if only to enable Worms to conclude his diary with: "September 24th: Came back and finished off my remaining teeth."

The extraordinary excuses, by the way, which a wife will make for a brutal husband is illustrated by an incident which occurred at one of the London Courts. A man was brought up on a charge of beating his wife and biting off a portion of her ear. The woman, however, as so often happens, was anxious to screen her husband, and, if possible, obtain his acquittal.

"Your husband has been treating you very badly, eh?" asked the magistrate.

"Oh, no, your worship," replied the witness.

"No? Did he not bite off a piece of your ear?"

"No, your worship, I did it myself!"

This incident recalls a story told by Mr. Justice Banks. It concerns a prisoner who, charged with brutally

assaulting another man, claimed that it was he, the prisoner, who had really been assaulted.

"Come, come!" exclaimed the magistrate, testily; "you claim this man assaulted you, and that you did not even attempt to defend yourself from his attack?"

"That's so," chimed in the prisoner, with a complacent air.

"How do you explain the fact, then," thundered the J.P., "that in three places he bears the marks of your teeth?"

"Why," explained the prisoner blandly, "'E 'urt me so when 'e was a-pounding of me that I 'ad to 'ave something to bite on, or I couldn't a' stood it."

The philosophy of defendants is amusingly illustrated by a story told by Judge Parry concerning a bookmaker who, having been fined £80 by the county magistrates, philosophically exclaimed: "After all, it's quite natural they should try to get a bit of their own back to-day; but I'll have my own back presently."

The audacity of prisoners at times is simply laughable, and it is Ballantine who relates the story of one humorous rogue, named Joseph Adie, who was once brought before Sir Peter Laurie, a London alderman, for raising money by circulating letters to numerous people, professing that he had obtained knowledge which would be most beneficial to them. By this means he made a good living for a time.

Finding, however, that he had committed no punishable offence, Sir Peter was obliged to discharge him; but in doing so the worthy alderman said, by way of reprimand: "Now, Joseph, if anyone wants to know your character, refer him to me." Adie, in all his future letters, headed them "Referred, by permission, to Sir Peter Laurie."

It has sometimes happened that a prisoner who has owed his acquittal to the eloquence and ingenuity of his counsel, has completely "given the game away," and provided another instance of the miscarriage of British justice, by some naïve confession or request.

The late Montagu Williams used to say that the best

tribute ever paid to what legal skill he possessed was that of a client, charged with stealing a horse, for whom he secured an acquittal. As the evidence puzzled him somewhat, however, he said to the man afterwards : " Look here, they can't try you again for this, so you are quite safe, but I'd very much like to know whether you did steal that horse ? "

" Well, Mr. Williams, I always thought I stole it till I heard your speech to the jury, but now I really don't think I could have done."

Another case is related by "A Circuit Tramp" in "Pie-Powder." It was a murder trial, and the real question left in doubt was the identity of the criminal. A common round hat had been found at the scene of the crime, and was said to have been worn by the prisoner. His counsel addressed the jury at great length upon the insufficiency of the evidence, and the hat was produced to them for their inspection. " An ordinary black bowler hat, gentlemen, such as most men wear—such as many of us wear ourselves ! It is upon evidence of this flimsy description that you, gentlemen, are invited to pronounce the doom of a fellow-creature—to send him to the scaffold," and so on, and so on.

The jury were much impressed, and returned a verdict of " Not Guilty," and the prisoner was discharged. But he lingered awkwardly in the dock and cast wistful glances round the Court, as if something were still weighing upon his heart. The warder tapped him on the shoulder and intimated that another gentleman was waiting to take his place. Then at last he spoke, in a voice husky with emotion ; " Beg pardon, your lordship, but can I 'ave my 'at ? "

Mr. Marshall Hall, too, tells a somewhat similar story. It concerns a man charged with poaching, whom he defended. The only evidence associating the prisoner with the crime was the discovery of a single-barrelled, muzzle-loading gun, that was said to belong to him, but the ingenious K.C. succeeded in persuading the jury that there was not sufficient proof, and a verdict of acquittal

was returned. Highly delighted, the prisoner left the dock, but as he did so he said, in a whisper that could be heard all over the Court, "But, I say, what about my gun?"

Then there was the gamekeeper who pounced upon a poacher in the act, with ferret, rabbit, and net. The man's defence was that he knew nothing about the matter except that he heard a noise and got over the hedge to see what it was, when the keeper seized him. The Bench gave him the benefit of the doubt. "Can I be tried again for this?" asked the man.

"No," was the reply.

"Not niver no more?" he repeated, and received the same answer.

"Then will you be good enough to tell 'em to hand me over ma ferret and ma net."

Another poaching story relates to a young constable who had the week previously hauled up before the Bench an offender charged with snaring a rabbit on a preserved estate. As the remanded case came on for a second hearing, the supposed defunct animal, which seemingly appeared as fresh as ever, was duly again in evidence, and the delinquent in the dock exchanged a meaning and significant glance with counsel.

"And so my client is charged on remand with stealing or ensnaring a rabbit," at once began the wary lawyer, calmly; "the one produced, eh?"

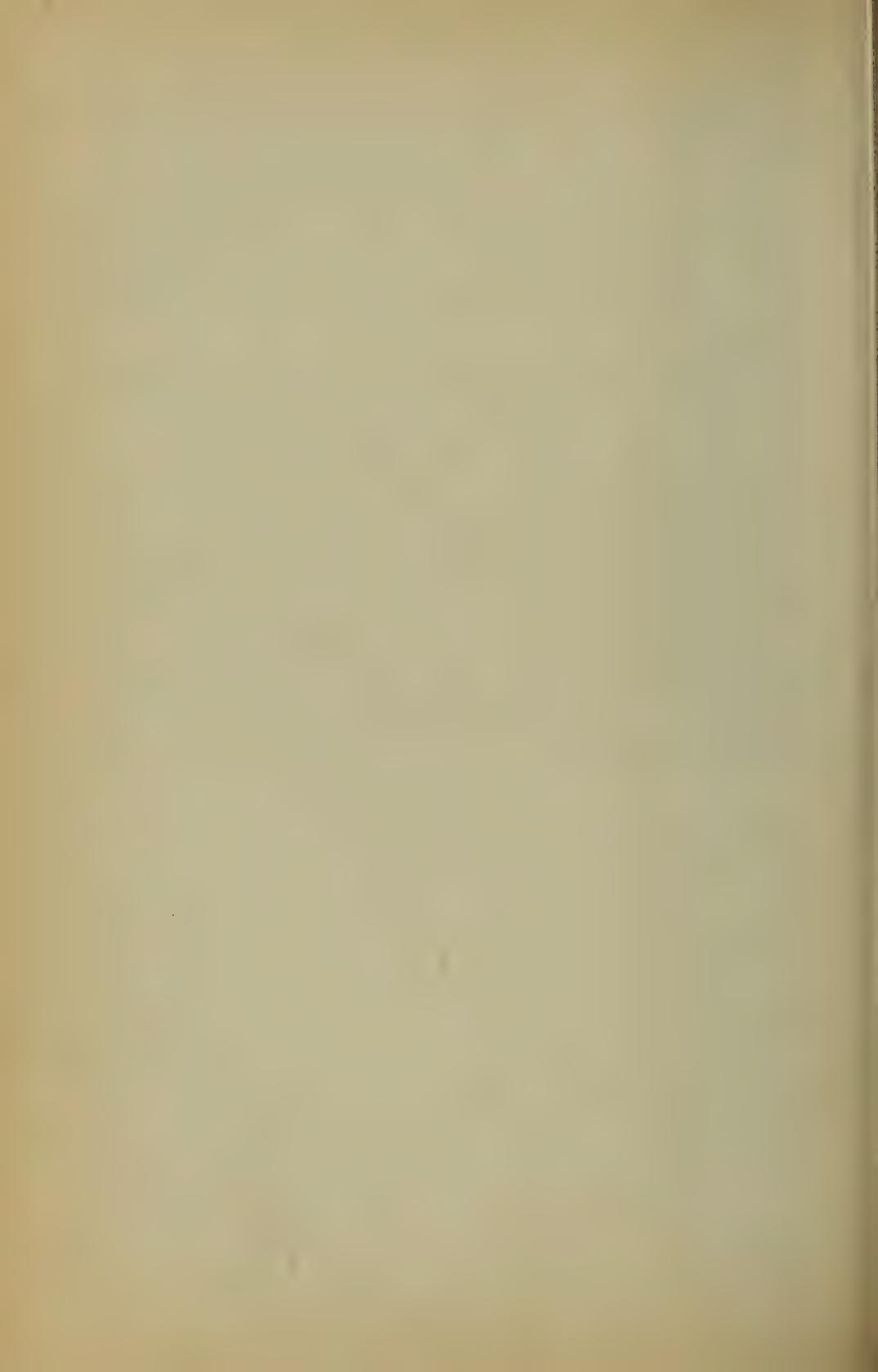
"Well—er—no, not the one produced," stammered the disconcerted Robert, "but one exactly like it. You see," he went on, "when the case was put off last week I ses to myself as that there rabbit won't keep till next Bench day, that's certain, so I'll have a pie made of it, and get a fresh one from the keeper a day or two before the time in place of it. It'll be as broad as 'tis long!"

But it wasn't, for, after the roar of laughter which greeted this explanatory statement had subsided, the magistrate announced that "the prisoner was discharged."

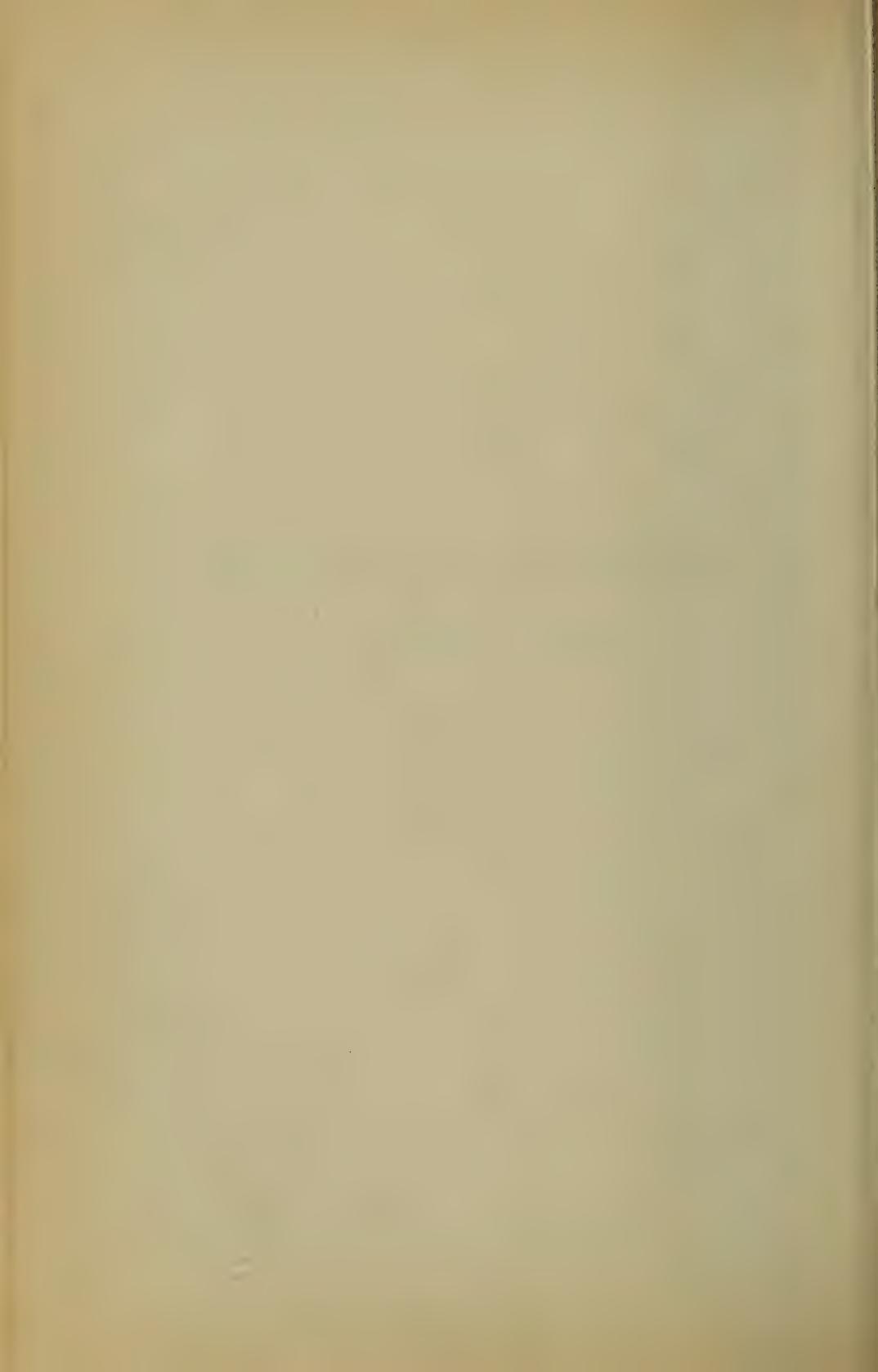
An excellent story of "bribery after the event" is told

in connection with a well-known provincial Judge, who had decided in plaintiff's favour in an action brought by a pork butcher. At that time the Judge had a new cook, and he found that every morning he had sausages for breakfast. At last he suggested to her a little variety. "Lawks, sir!" said the cook, "I thought you liked sausages. I forgot to tell you, sir, that Mr. Smith left a box of them, with his grateful thanks!" Smith was the litigant.

Sir Edward Clarke also tells a good story concerning his defence of a young prisoner who had been found in illegal possession of some silver forks and spoons. Mr. Clarke, as he was at that time, pleaded so eloquently that the culprit got off with a comparatively light sentence. When the man's term of imprisonment had expired, the barrister was astonished one morning to see the released convict walk into his chambers. "You didn't expect to see me again, did you?" inquired the visitor. "But, you see, it's like this: when they caught me I had a lot of silver forks and spoons, which they immediately took away. Now I thought that, as you managed to get me off so lightly, you might be able to get those forks and spoons back for me!"



WISDOM, WIT AND HUMOUR IN THE
POLICE COURTS



CHAPTER IX

WISDOM, WIT AND HUMOUR IN THE POLICE COURTS

“ Fear God, and offend not the Prince nor his laws,
And keep thyself out of the magistrate’s claws.”

Tusser.

THE dinginess and drabness of the Police Courts is at times somewhat relieved by flashes of wisdom, wit and humour, the latter being supplied, usually unconsciously, by witness, prisoner, or complainant, while the magistrate now and again takes advantage of an opportunity to deliver a little homily to those in Court, arising from the case of the moment, or is led to comment facetiously upon the evidence submitted. For they do not all adopt the rule of Judge Hans Hamilton, who, when replying to an expression of regret at his retirement from the Blackpool County Court, some time ago, said that, in order to expedite business and save time, he always had in front of him, written in large letters on a piece of blotting-paper, the words : “ Do not talk. Do not make jokes.”

One naturally wonders what Mr. Plowden, or his rival in wit and humour, Mr. J. A. Symmons, the magistrate at Greenwich Police Court, think of these rules. It is a characteristic of Mr. Symmons that he likes to wrap up, so to speak, a little friendly advice in a humorous manner when an opportunity occurs. “ If you have a good housewife and a good mother, she is sure to have a sharp tongue,” he said a short time ago. “ I know the type. They are the best women in the world, and they are most difficult to get on with. You cannot have it both ways.”

This reminds one of Mr. Hedderwick, who, at West

London, told the wife of a man who had attempted suicide that many men had been driven to destruction by a woman's tongue. Sometimes nagging was more difficult to bear than blows. She must not "scorch" her husband with her tongue, making him rush to the water to cure the "pain."

A man told Mr. Symmons one day that he was willing to provide a home for his wife if she would leave her mother. "I've seen her mother," said Mr. Symmons, "and there's nothing wrong with her—You must remember :

"A son's a son till he gets him a wife ;
A daughter's a daughter all her life."

Mr. d'Eyncourt, at Clerkenwell, however, takes a somewhat different view of the mother-in-law. "You are entitled to turn your mother-in-law out if you don't want her," he said at Clerkenwell, "and to keep her out. An Englishman's home is still supposed to be his castle."

Referring again to Mr. Symmons, his comment on the evidence of a jealous wife is worth recording. "Suppose the husband has walked with another lady, whatever is the harm," he said. "Suppose a noble duke meets a countess, not his wife, in Hyde Park, waves his hand to her, says, 'Halloa, countess, how are you ?' walks up to her, walks by her side, is the duke to be considered immoral—cruel ?"

A man fined for drunkenness by Mr. Symmons said he had "two drops of brandy, as he was unwell." "If you take spirits you should go to bed and sleep it off," advised the magistrate. "I am not telling you this from experience ; I am telling you what I have read in books. Brandy will often cure a stomach-ache, and rum will always cure a cold ; but you should not take 'three threes' off the reel ;" an incident which recalls another occasion when Mr. Symmons, addressing a prisoner, said that if the story was true, that the accused was arguing with three women at once, he must have been very drunk.

And he has thus sarcastically voiced his views on the

rules of courtship. When a man complained before him that a woman followed him about and would not leave him, Mr. Symmons told him: "Even if you don't want to be won, you must not reject the lady by fighting her in the street."

As an illustration of the petty troubles which come before our magistrates, the case might be mentioned of a lady who asked Mr. Symmons' advice in the following circumstances: Her little boy was playing with others, and pushed another boy through a greengrocer's window. She had offered to pay half the cost, but the greengrocer demanded the whole. Mr. Symmons: "What do you want me to do—put the glass in for you, madam? I could do it, I have done it; but I make an awful mess with the putty."

Women, however, are frequently the source of much amusement in Court, particularly when airing their marital grievances. "I would not like to see even a dog go to prison, but he deserves it," said a woman at Highgate, regarding her husband, during a maintenance case; while a woman, who applied at Marylebone for process against her husband for desertion, said that when she asked him to maintain her he replied that he had a horse to keep.

It was at Tottenham that the magistrate asked a female complainant, "Have you a husband?" "There is a man living at our house." "Is he your husband?" "I think so," which is almost as good as the reply made by a woman at Willesden, who when the magistrate asked if she was a "friend of the prisoner," replied, "No, I'm his wife."

It was also at Willesden that the magistrate remarked to a woman, who complained that her husband would not work, "You cannot make a man work if he is determined not to do so. There are so many wives willing to work in these days to keep their husbands, that the wives who will not do so are apt to become unpopular."

There is, however, a mixture of shrewdness and humour at times in the manner in which women give their

evidence. A young woman applied to the Acton Bench for a summons for assault. Magistrate: "Any witnesses?" Applicant produced a small parcel, which she opened, and showed to the magistrate a handful of hair. A summons was immediately granted.

"What evidence have you?" the Brentford magistrate asked a woman applicant. "I have brought my black eye," she replied. And it was at Tottenham that the following dialogue took place. Magistrate: "Did you tear up your marriage certificate accidentally or for a purpose?" Female Applicant: "I tore it up accidentally and for the purpose." Magistrate: "Haven't you any evidence that you were married?" Applicant: "Four children."

Asked why she did not answer to a charge at Brentford, a woman said she went on tour in the country. The Magistrate: "Theatrical?" The Accused: "No, bless you. Hopping!"

Sometimes, however, overawed perhaps by their surroundings, women get fearfully confused. "Were all your children born in wedlock?" asked a parish council clerk of a mother who had applied for relief. "No, sir," answered the woman; "they were a' born in Paisley. I've never been near that ither place in ma life."

A woman stepped into the witness-box at Tottenham and said: "I am the wife of a disinfectant," while another wanted a summons for the "inflammation of her character."

Very amusing, too, was the unintentional "bull" of the lady at Tottenham who said, "My husband comes home speechless drunk every night and uses abusive language."

Presumably the lady who said at the Westminster Court that her husband was "a mental division" intended to say "mentally deficient"; the meaning of the female defendant at Ystrad who said she was sorry she "didn't go to the doctor to analyse me"; and another at Swansea, who said "I have no witnesses here for my benefication," being fairly obvious.

Male witnesses, however, get very muddled at times. "Have you seen the defendant since?" asked the Tottenham magistrate. "No," was the witness's reply: "at least, only once, and that was when he broke into my house, and then I didn't see him!"

"I gave him verbal notice, but I have not brought it," said an applicant at Caerphilly when asked to produce a notice to quit; while another Welsh witness knew that his son had a "sharp and quick temperature."

The record in cautiousness was established by a witness at Hackney Coroner's Court who was asked by the coroner:

"How long have you been married?"

"To the best of my knowledge eighteen years," he replied.

"Any children?"

"One sixteen years ago, to the best of my knowledge."

"None since?"

"To the best of my knowledge, no."

The duties of the magistrate's clerk, however, are no sinecure, judging from the following dialogue which took place at the Wakefield West Riding Court: Clerk: "Is the defendant related to you?" Complainant: "Yes, he's my husband's wife's husband." Magistrate's Clerk: "No, no, he can't be that." Complainant: "I mean, my husband's sister's husband."

Quite clear, however, was the reply of the complainant at Highgate, who, when the clerk said "Has your husband hit you between those dates?" promptly replied: "No, in the eye." A remark which also applies to the reply of the lady who was asked, "Did you marry him on the spur of the moment?" "No, sir, at the Registry Office."

Testifying to the character of a woman at Brentford, a female witness said: "I never knew her to commit suicide before"; while another, asked if she knew the prosecutrix, cheerfully replied, "Oh, yes, we did three months together."

The volubility of ladies in the Police Courts has been

the cause of many amusing scenes and comments. At Brentford a woman complained that her husband stayed away from home for several days. She was talking volubly, when the magistrate remarked that he was not surprised that her husband went away. "If you talk as glibly to him as you do to me," he added, "he would want a week's rest occasionally."

"You know what women are —talk, talk, talk, all the time," said the Highgate magistrate. "Leave them alone, and they soon get tired;" while it was a Tottenham magistrate who remarked to a talkative woman, "I am not going to compete with you; you possess all the qualities of a winner."

Perhaps, however, the most caustic comment on woman's tongue was that made by a man at Belfast, when making a second application for a warrant against his wife, the first having been deferred on the advice of the magistrate to "make it up and start the new year well." "My wife," said the applicant, "or my master, as you will, has been at me again. My son said he would kick my ribs in if I did not pay the rent, and she, my spouse, said: 'That's right, give him a kick.'" The Magistrate: "We have heard all this before." The Applicant: "Yes, I know; but, as the poet says:

"Bathe my feet in boiling lead
Or place me on a rack;
But save my life while I am here
From yonder woman's clack."

The comments of magistrates on the weaknesses of the opposite sex which have already been mentioned could be further supplemented.

"The gallows will be my end; I'm very passionate," said a young woman who applied to Mr. Hedderwick, at the North London Police Court, for a summons against a man for assaulting her. "I'm very sorry to hear that. You must endeavour to control your passions." "But I'm Irish and Spanish mixed." "That ought to be a splendid mixture—the Spanish people are brave and the Irish people are humorous." The woman said

" the man was a mean worm to assault her. The Magistrate : " Yes, there are lots of worms, and they will have all of us some day."

And probably the complainant at Woolwich who told the magistrate that after the marriage service her husband told her that she had " blasted his life for ever," and was told " Many men come to the same conclusion, but not so rapidly," went away to ruminate on the vagaries of the sexes.

But women can be trusted to hold their own. A woman who complained at Acton of her husband's conduct was asked by the magistrate : " Have you ever summoned him before ? " She replied : " Yes, for assault. He was taken to the West London Hospital and bound over."

As an example of womanly wiliness, however, the following would be hard to beat. A woman witness at Bow Street admitted that she stole a letter from a man's pocket while he was sitting on her knee. " Well," she explained, " if you are going to marry a man, you must know something about him."

The excuses of the man who has drunk well but not too wisely, and has in consequence fallen into the hands of the police, provide as much amusement as the quaint remarks of women witnesses in the Police Court. Here is a question—which you can answer as you please—propounded at York by a defendant. " Isn't the real case this ? When I'm drunk and know I'm drunk, then I'm sober ; but when I'm drunk and think I'm sober, then I'm drunk ? " an incident which recalls the case of the man charged with drunkenness at Lambeth, who stated that he walked into Brixton police-station for protection, explaining that he was " sober enough to know he was drunk."

The following definition of being drunk was given by a labourer in a Melbourne police court : " I go on drinking till I think I'm drunk. Then I drink more till I believe I am sober. Then I am sure that I am drunk."

It has been laid down, however, at Southwark, that

when a man who falls in the gutter and thinks he is in bed can fairly be considered drunk, a proof which few will dispute.

A well-dressed married woman was one day charged at Clerkenwell with being drunk, and protested her sobriety. The constable gave evidence to the effect that the doctor was called at her own request. The Woman : "Yes," and he asked me to open and shut my eyes (which I did) and put my heels together (which I did); but when he told me to stoop and touch my toes with the tip of my fingers I told him to do his funny tricks himself."

There was also the man at Highgate charged with drunkenness, who, when questioned, said : "The doctor at the police station told me to put my back to the door, shut my eyes, and walk towards him. I replied, 'Certainly not, doctor; God gave me eyes to see with, not to walk in darkness.'"

When Thomas Roberts was charged at Willesden with being drunk, he said he was always meeting friends, and they insisted upon giving him drink.

The Magistrate : "If you are not strong enough to resist you should keep out of their way."

Prisoner : "Unfortunately, sir, I have rather bad eyesight, and they see me before I see them."

Which could be followed by the excuse of the prisoner, charged with being drunk and disorderly, who, when the magistrate asked, "Have you anything to say?" replied, "Yes, sir. It was due to travelling in bad company—the Sons of Temperance." Magistrate : "But I should think they'd be the best company a man like you could ask for." Prisoner : "No, sir, you're wrong. You see, I'd bought a quart of whisky for the journey, and on account of the company I had to drink it all myself."

A man charged at Highgate explained the position to the magistrate in this form :

"I became a little pale,
So I had a little ale;

Up came the man in blue.
I said : ' What is't to do with you ? '
He took me to the jail.
And that, sir, is my tale."

The frankness of the "drunk and disorderly" is often as amusing as his excuses. "If the policeman had left me another ten minutes to get ripe he'd have had a case," said a defendant. "As it was, he was too early by several pints."

"I came from the pit," said a defendant at Sheffield, responding to the charge of being drunk, "and instead of going home I went to a pub. It got from a can to a pint." Magistrate : "And from a pint to a quart ? " Prisoner : "Correct, sir."

The drinking capacity of the collier, however, was graphically described at Aberavon by a witness. "How many pints can you drink coming from work ? " was the question put to him. "With a collier the first pint goes down without knowing. You just feel the second and the third gives a little satisfaction."

A little old woman shuffled into the dock at Tottenham. The Clerk : "Alice Mahon ? " Prisoner : "Alice Mahon, aged sixty-seven, a native of Brighton, and a traveller from casual ward to casual ward." She was charged with being drunk and disorderly. "I only had two glasses of beer," she said, "and your worship will agree I couldn't get drunk on that." The Magistrate : "I don't know." The Woman : "I do, and I am ready to be tested."

"If I let you off this time," said a Tower Bridge magistrate, "will you promise me to take the pledge ? " Delighted prisoner, excitedly : "I will, your worship, and drink your health !" Very naïve was the remark of a man who was charged at the same Court with attacking his wife, who said : "By an accident, sir, we were both perfectly sober," which is equal to the reply of a woman at Tottenham who said she had had two drinks. The Magistrate : "How many drinks make two ? " The Woman : "Three." And that of a prisoner who,

as an explanation of his failing, said, "I dropped in home, and some pals dropped in, and we had several drops. We went out, and dropped into a pub and had some more drops, and then I suppose I dropped down."

Now and again magistrates are very sarcastic at the expense of the inebriate. Of a man, charged at Willesden with being drunk, it was stated that he clung to the police station railings and shouted, "Take me inside. I want to go to sleep." He was taken inside, and remained there all night. The Magistrate: "You go to the hotel. You are accommodated. You remain the night, and now you pay the bill. It is five shillings."

A middle-aged woman, who was charged at Marylebone with being drunk, was said to have been found lying fast asleep in a garden on a quantity of cut flowers. "I must say I feel a little sorry for you," said Mr. Plowden. "Asleep on a bed of flowers—wakened up and brought back to this wicked world. It must have caused you a shock. You may go with a caution."

Perhaps the gem of all, however, was the remark of the man who thus complained: "I don't believe they know what they're doing when they're drunk. They even kissed my missus when they met her."

Query: what did the missus say?

There are occasions when the "man in blue" provides as much amusement as the woman witness and the inebriate. A young policeman, giving evidence in a London burglary case, was so excited that he accidentally said: "Please, your worship, I was the only person present in the house except another constable, who was outside."

"The last witness surrounded the five boys," said a constable at Edgware, while, in reply to the magistrate at Tower Bridge, who asked, "What is the man charged with?" the reply was, "Bigotry, your worship. He's got three wives."

"The police will say anything except their prayers," said a witness at Willesden, and there are times when they depart a little from the actual truth, judging from

the following amusing police court incident. An inspector, giving evidence in the official staccato fashion, said : " I went to No. 27, where I saw prisoner in bed. I said, ' I have a warrant for your arrest for burglariously entering the premises at etc., etc.' " " Any questions ? " said the magistrate. " Yes, sir," said prisoner. " I'm sure Mr. Jackson don't want to say only what is true. Didn't you come to my room and say, ' Now, then, Ginger, 'op out of it ; I want yer ? ' "

Occasionally, however, the police show particular smartness, notably, for instance, when a solicitor at Ystrad said : " Did you see him coming through the door ? " Police witness : No, sir, through the doorway."

Examples have already been given of the sarcasm of which various magistrates¹ are capable. Perhaps, however, one of the most sarcastic of Metropolitan presiders over the magisterial bench is Judge Cluer. " This letter, your honour," said a solicitor at Shoreditch County Court, " is very important. It will explain the case very much better than I can." Judge Cluer : " Then why did they retain you ? What on earth are you here for ? "

Comments by the Bishop of London (Dr. Ingram) on the falling birth-rate were quoted by counsel in another case, when Judge Cluer remarked : " What has the bishop to do with it ? He is not married. Example is better than precept."

When a doctor remarked, in giving evidence, that " everything is possible," Judge Cluer replied : " No, it is not, or many a man would like to undo what he has done," while, when counsel put a question to a witness twice he was sharply rebuked by Judge Cluer, who said : " If you see me asleep, tell me, but do not assume it by asking questions twice."

It was Judge Cluer who once dryly remarked, when a prisoner said : " I am only speaking the truth," " You must not take unusual exercises here," which might be followed by the comment of the magistrate at Tottenham, who had occasion to remonstrate with a woman for

repeating herself. She answered : " I am only telling the truth." Magistrate : " Don't tell it too often. It palls on one, you know."

Then there was the solicitor who pertinently remarked that " Common-sense and law do not always go together," and another who said that " The two women's language would make a Billingsgate porter put wool in his ears."

Quite a Sam Weller in his way was the solicitor at Birkenhead who asked prisoner how old he was. Prisoner (with an air of pride) : " Forty-two to-day, sir." Solicitor : " Many happy returns." Magistrate : " That cuts both ways ! " Solicitor : Yes, as the dog said when it fell into the sausage machine."

And what an ingenious argument was that of the solicitor who, defending a farmer accused of supplying adulterated milk, said : " The deficiency was due to the hand of Heaven in allowing the cows to feed on wet grass the night before, and permitting the rain to fall heavily while Ball (the farmer) was taking his churn with a leaky top along the country lanes." The Magistrate dismissed the summons.

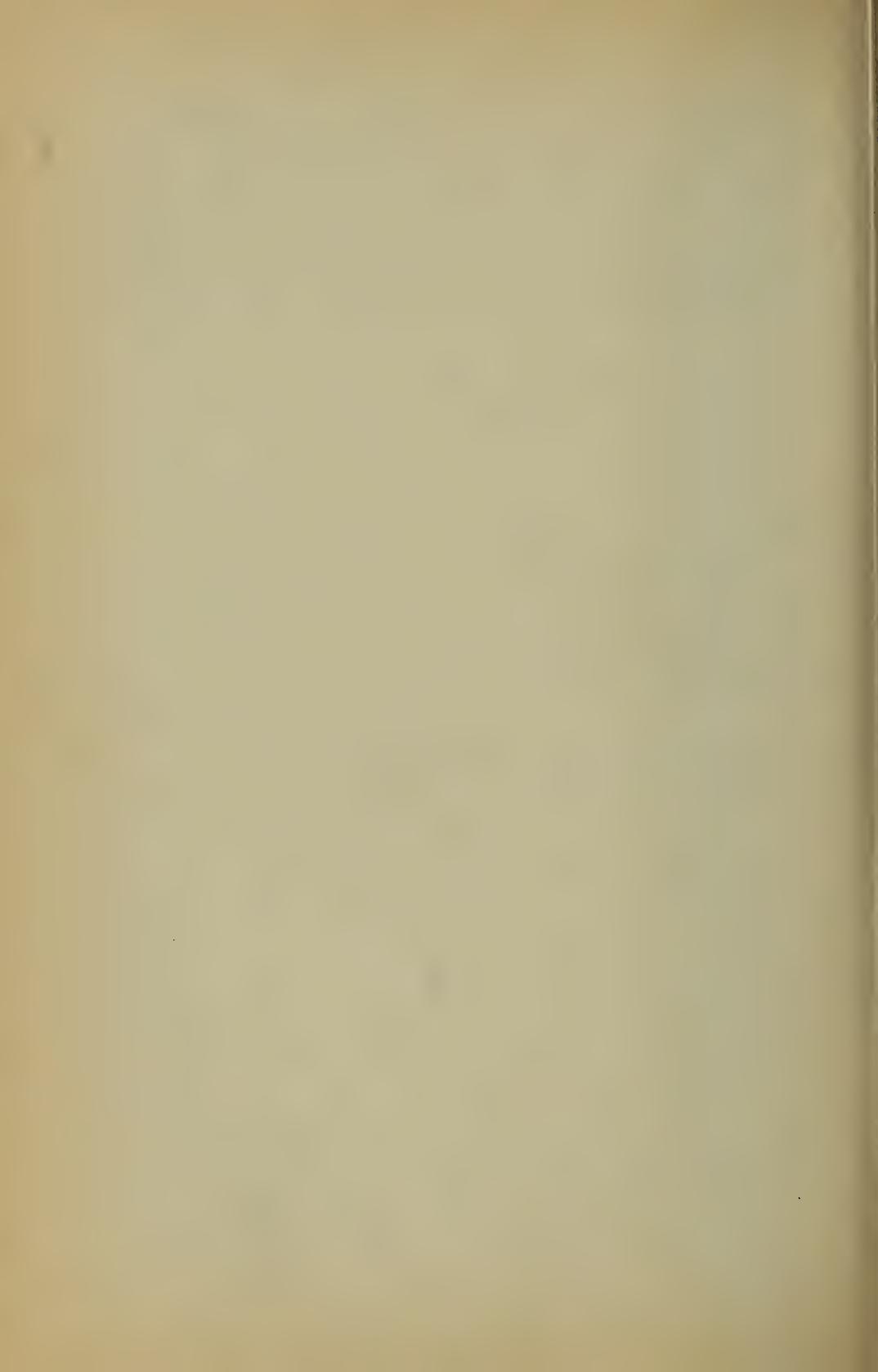
" The solicitor has forgotten to charge most of his costs," said a counsel at Shoreditch. " I beg your pardon ! " said the Judge, in an astonished voice. " No, surely, that has never occurred ! "

" How is it," said another solicitor, " that you have waited three years before suing this man Jones for calling you a rhinoceros ? " Client : " Because I never saw one of the beasts till yesterday at the Zoo." Quite an unexpected reply was that of a witness who, after describing how a cart and a barrow collided, was asked : " And in what relation were you to the cart ? " " Garn ! " retorted the man. " Carts don't have no uncles nor aunts."

A cabman, charged at a London police court with over-loading his horse, was asked how heavy a load he had on his van. " About a ton," he replied ; " but it was all light stuff ! " while at a Bethnal Green inquest the foreman of the jury remarked on the light weight of a child.

"I have been a judge of horseflesh for years," he added, "and I ought to know what a child should weigh."

Many more examples of the humours of police-court sayings might be given, but the foregoing are perhaps sufficient to show that our police courts are not always, as one writer has put it, "the most sad, dreary and dullest of institutions, presided over by men who never smile."



HUMOURS OF THE WITNESS BOX

CHAPTER X

HUMOURS OF THE WITNESS BOX

"Get your facts first, and then you can distort 'em as much as you please."—*Mark Twain*.

INSTANCES of merriment caused in court by the humourous remarks of witnesses are, of course, legion. In the following chapter, however, an endeavour has been made to give a selection of the most diverting but lesser-known stories. Many of the incidents have been related by legal celebrities themselves, while the others have happened in connection with cases in which the rank and file of the profession have been concerned.

Lord Brougham was not a great talker in private life, but now and again he lapsed into Bar recollections, and frequently told the following witness story.

During a certain assizes, in a case of assault and battery, where a stone had been thrown by the defendant, a witness, hailing from the county of broad acres, was examined.

"Did you see the defendant throw the stone?"

"I saw a stone, and I'se pretty sure the defendant throwed it."

"Was it a large stone?"

"I should say it wur a largeish stone."

"What was its size?"

"I should say a sizeable stone."

"Can't you answer definitely how big it was?"

"I should say it wur a stone of some bigness."

"Can't you give the jury some idea of the stone?"

"Why, as near as I recollect, it wur something of a stone."

“ Can’t you compare it to some other object ? ”

“ Why, if I wur to compare it, so as to give some notion of the stone, I should say it wur as large as a lump of chalk.”

And it was Lord Cranbrook who once told this story of the cross-examination of a witness who admitted having had £5 from each candidate during a certain election.

“ You went and dined at the Red Lion and found £5 under your plate and pocketed it ? ”

“ I did.”

“ And then you went and made a second dinner at the Blue Lion and found there also £5 under your plate, and pocketed it ? ”

“ I did.”

“ And then, with the money of the Blue Lion candidate in your breeches pocket, you went and voted for the Red Lion candidate ? ”

“ I did not.”

“ What ! You did not ! Whom did you vote for, then ? ”

“ I didn’t vote at all, because I hadn’t a vote.”

Talking of obstreperous witnesses, the following story is a favourite in legal circles. It probably isn’t true, but it is well worth recording for all that.

“ Do you know the prisoner well ? ” asked the attorney.

“ Never knew him ill,” replied the witness.

“ Did you ever see the prisoner at the bar ? ”

“ Took many a drink with him,” was the reply.

“ How long have you known this man ? ”

“ From two feet up to five feet ten.”

“ Stand down ! ” yelled the lawyer, in disgust.

“ Can’t do it,” said he. “ I sit down or stand up.”

“ Officer, remove that man ! ” And he did—with trouble.

Judge Parry has related a number of amusing stories of witnesses in his reminiscences, “ Judgments in Vacation.” One concerns a fat old dame who sued her son-in-law for £2 17s. 9d.

The odd shillings and pence were admitted, but the £2 could not be traced to any particular source. The old lady swore it was a grocery account. The young man denied it with emphasis, and said it was spite. Sarah, the old lady's elder daughter, remembered some of the items of it, and with great relish swore to them in detail. The young wife, who had been keeping a very lively baby quiet, at last got into the witness-box.

Flinging the baby into her husband's arms and kissing the book with a smack, she shot out the following testimony at her mother and myself: "Look 'ere, mother, you know reet enow what that there balance is; it ain't no balance at all—it's my 'at and the wedding-dress, and the shoes to match, and the pair o' greys what druv us to church, which I paid for when I was in service for three years, putting by 'arf-a-crown a month, which mother kep' for me, and well she knows it, which it's Sarah's spite, as ain't got married yet."

"The Yiddish witness," says Judge Parry, "swears in tribes, so to speak. 'My lords,' said one. 'I have sworn by Jehovah that every word I say ish true, but I vill furder than that. I vill put down ten pounds in cash, and it may be taken away from me if vot I say ish not true.'

"The offer was made with such fervour and sincerity that I thought it best to enter into the spirit of the thing. Turning to the little man, I asked, 'Are you ready to put down ten pounds that what you say is true?'

"He looked blank and lost, and shaking his head, murmured sadly, 'No, it ish too motch.'"

Another of Judge Parry's gems is the following. He was rebuking a man for backing up his wife in what was not only an absurd story, but one in which the Judge could see he had no belief.

"You should really be more careful," he said; "and I tell you candidly I don't believe a word of your wife's story."

"You may do as you like," he said mournfully, "but I've got to."

"The sigh of envy," says the Judge, in relating the incident, "at the comparative freedom of my position as compared with his own, was full of pathos."

There was an amusing old gentleman who came before Judge Parry once, in a very perturbed state, to know if, to use his own phrase, he was "antaitled to pay this 'ere debt."

"The incident," says the Judge, "occurred at a time when the citizens of Manchester were being polled to vote on a 'culvert scheme' of drainage, which excited much popular interest."

"'I don't deny owing the debt,' he said, 'and I'll pay reet enow, what your Honour thinks reet, if I'm antaitled to pay.'

"I suggested that if he owed the money he was clearly 'entitled' to pay.

"'Well,' he continued, 'I thowt as I should 'ave a summons first.'

"'But you must have had a summons,' I said, 'or how did you get here?'

"'E towed me case wor on,' he said, pointing to the plaintiff, 'so I coom.'

"'You see,' he said, 'I no scholard, and we got a paper left at our 'ouse, and I took it up to Bill Thomas in our street—a mon as con read—an' 'e looks at it, an' says as 'ow may be its a coolvert paaper. So I asks him what to do wi' it, and he says: "Put a cross on it and put it in a pillar-box," and that wor done. But if you says it wor a summons, Bill must 'a' bin wrong.'

Judge Parry's stories of his experiences at the Manchester County Court, however, are inexhaustible, and perhaps the comedy of a man's Sunday trousers is one he tells best. In the plaintiff's box was a woman; in the defendant's an elderly collier. The plaintiff stated her case: "I lent yon mon's missis my mon's Sunday trousers to pay 'is rent with, an' I want 'em back." The defendant at first replied: "There's nowt in it at all." Pressed for a more definite reply, he scowled at the judge and protested: "Why, the 'ole street knows

all about them trousers." But Judge Parry was not the "'ole street," and he patiently encouraged the defendant to talk until he got the explanation: "Why, yon woman an' my missis drank them Sunday trousers."

Another experience with one of the opposite sex relates to a woman who was summoned before him for non-payment of rent. "Why don't you pay the money?" he asked her. "Last Friday week, when I was cooking a rabbit——" she began. "My good woman," interrupted the judge, "never mind the rabbit, but tell me why you didn't pay the rent." "I'm telling you," retorted the woman, "if you will only let me. Last Friday week when I was cooking a rabbit, and the soot fell down and spoiled the rabbit; and do you think I was going to pay rent for that week?"

There is a delicious witness story which Judge Parry tells elsewhere concerning a cross-examination in Manchester one day, by a Mr. Hockin, who was seeking to show that the witness was not present at the works where he was employed at the time of an accident to which he was testifying:

"But I think you said you had a holiday that day?"

"I had an' aw!"

"Do you mean to tell the Court," asked Mr. Hockin, "that you came back to the works when you might have been enjoying a holiday?"

"Certainly," replied the witness.

"Why did you do that?" asked Hockin, with a touch of triumph in his voice.

"What should I do? I have nowhere to go. I'm teetotal now!"

Judge Parry also tells a good witness story against his friend Mr. Joseph Collier, a Manchester surgeon. There had been an accident to a workman, which was said to have resulted in concussion of the spine. The workman was a very stolid character, and Collier had examined him for the insurance company. The following cross-examination took place:

"Do you remember Mr. Collier examining you?"

“Aye, I do.”

“Did he stick a pin into your thigh ? ”

“Aye, 'e did, an aw.”

“Did you start up and scream ? ”

“Well, so would you.”

“But hadn't you told him your thigh was numb and had no feeling ? ”

“What's the use of telling 'im onything ? ” said the witness, pointing contemptuously at Collier. “That's where doctor made 'is mistake. I told 'im I were numb i' front, and what does 'e do but go and stick a pin into my backside. 'E's no doctor.”

There is a story, too, of how a very unwilling witness at once settled a case. A chemist's assistant, dismissed for drunkenness, sued his late employer. Among the witnesses called by the latter to prove that the assistant was drunk was a working man, called on subpœna, whom Judge Parry asked to tell his story in his own words.

“I dunno reely much about it,” he said. “I was passing shop, an' 'ad a bit o' cough mysen, so I went in for twopennoths o' balsam. An' when I got in t' shop I saw yon mon”—pointing to plaintiff—“leaning up agin them variagated decorated drawers like they 'ave in them shops, an' I says to mysen, I says: ‘Enery, you ain't tired o' your life yet, are you, 'Enery ? ’ An' with that I cooms out wi'out ony balsam—and that's all I know.”

And that settled the case.

As an illustration of what a woman will say in Court, and incidentally as an example of East End slang, the following would be hard to beat. It was a case of assault, and the downtrodden wife was laying her grievance before the magistrate.

“He started by giving me a bif on the nut,” she explained.

“My good woman,” rebuked the magistrate, “you mustn't talk like that here. I suppose you mean he gave you a blow upon the head ? ”

"Yus, yer worship ; and then he tried to do me in by chucking his baccy box at me."

"By which I presume he tried to injure you by precipitating his box of tobacco at you. Pray, do try and avoid slang, and inform the Court what other injuries he inflicted upon you."

"Well, then he—er—he," began the witness.

"Come along, don't waste the time of the Court."

"Ee—excuse me, yer worship, I was wondering what was your favourite name for a 'swipe across the jaw.' "

Women in the witness-box, however, are often the most perverse of creatures. When a charming lady once asked the late Mr. Justice Grantham : "Is it true, Sir William, that women have less regard for the truth in the witness box than men ?" He replied : "I should scarcely like to say that, madam. I should prefer to say that they coquet with it more."

The truth was perhaps best stated by the late Sir Frank Lockwood, who once said : "As the result of a long experience, I am convinced that woman has at least as great a regard for her oath as man ; and if she gives false evidence, as no doubt she often does, it is the result either of nervousness or of a conviction wrongly arrived at. She means to speak the truth, and honestly thinks she is speaking it."

It is, however, scarcely surprising that many women lose their heads and contradict themselves under the fire of examination and cross-examination. In an assault case one good lady contradicted in cross-examination every statement she had previously made. When counsel ventured to remind her of this disturbing fact she answered with a smile : "Oh, I am glad you told me ; I had no idea that I had done anything so foolish." Nor had she.

There are some women witnesses who are not content merely to answer the question. They love to couple it with some damaging statement—to work off some private grudge or jealousy. Thus, when counsel once asked a lady : "You have a husband, Mrs. _____ ?" "Yes," was the emphatic answer, "I am sorry to say I have !

And a nice time I've had with him, too!" "What does he do for a living?" "Do?"—in withering accents—"You may well ask what does he do! The lazy wretch lies in bed half the day, drinks the other half, and leaves me to keep the home going."

"Are you quite sure," another lady was asked, "that it was the respondent you saw with the co-respondent?" "Sure? Of course I am sure. Why, I could not mistake her painted face and that monstrosity of a hat half a mile off!" "I am afraid you do not love the lady?" counsel ventured. "No, I don't," she snapped out. "I can't bear the sight of her, and I can't for the life of me tell what any man can see in her."

At times, however, women prove themselves more than a match for counsel. Said a rather pompous barrister of small stature and by no means imposing aspect to a female witness: "Will you describe the man you saw walking with the prisoner?" "Well," she replied, "he was an insignificant little fellow, with a plain, clean-shaven face—almost the image of yourself." "You might have mistaken him for me, then?" "No, I couldn't," was the answer. "Why?" "Well, though he wasn't much to look at, he was evidently a gentleman."

It was another counsel who asked a lady: "You say the man you saw was handsome. Now what would you call handsome? Would you say, for instance, that I am handsome?" "You forget, sir," was the smiling reply, "that I am on my oath!"

Then there is the female witness who, in answer to the simplest question, will give counsel the history of herself and her family from the beginning. It was one such lady who, in answer to the question: "What do you do for a living?" answered: "I do nothing for myself except cook, wash, scrub, make beds, clean windows, mend my children's clothes, teach the four eldest their lessons, take care of my husband, and try to get enough sleep to be up by five in the morning. I guess if some lawyers worked as hard as I do they would have sense enough not to ask impertinent questions."

Women, however, are not the only sinners in regard to being perverse and verbose in the witness box. Men are equally guilty at times. Take the example, for instance, of an Irish plaintiff in an action for assault and battery. After relating how Dennis, the defendant, came up to him and struck him, he proceeded :

“ So, yer honour, I just hauled off and wiped his jaw. Just then his dog cum along, and I hit him again.”

“ Hit the dog ? ”

“ No, yer honour ; hit Dennis. And then I up wid a stun and throwed it at him ; and it rolled him over and over.”

“ Threw a stone at Dennis ? ”

“ At the dog, yer honour. And he got up and hit me again.”

“ The dog ? ”

“ No, Dennis. And wid that he bit me in the leg and run off.”

“ Dennis ? ”

“ No, the dog. And when he came back at me, he got me down and pounded me, yer honour.”

“ The dog came back at you ? ”

“ No, Dennis, yer honour ; he isn’t hurt any at all.”

“ Who isn’t hurt ? ”

“ The dog, yer honour.”

Even this witness, however, was not quite so exasperating as one in a Chicago burglary case. The Judge, becoming impatient on account of the witness’s wanderings in speech, says Marshall Brown, in “Bulls and Blunders,” took the examination out of counsel’s hands, with the remark : “ Allow me to examine this witness. I think I can get at the truth. Now, MacTurk, you say you know all about this burglary. State in as few words as possible what you saw and heard.”

MacTurk : “ Well, you know, I got up that mornin’ at five o’clock and I dhresses meself——”

Judge : “ Stop a moment. This burglary took place at three o’clock in the afternoon. What has five o’clock in the morning to do with that ? ”

MacTurk: "Sure, that was the time I got up, your honour. I'll explain."

Judge: "We don't want explanations. Go on with the evidence."

MacTurk: "As I said before, I got up that morning at five o'clock and I lit the fire—no—I made a mistake; I never light it till I've had a dhrink."

Judge (sternly): "We don't care to hear anything about that, sir."

MacTurk: "Sure, I know ye don't, yer honour—why should ye? Me wife sez to me—"

Judge (emphatically): "Never mind what your wife said."

MacTurk: "I never do, yer honour; I pay no attention to her whatever. I lit me pipe—"

Judge: "Never mind your pipe."

MacTurk: "And I went down to the corner, and I got a sixteen-to-one—"

Judge: "A what?" (Sensation in the court.)

MacTurk: "It's a dhrink, yer honour. They put sixteen different things in it, an' if ye took the second one it would knock ye stiff."

Judge (rising angrily): "I would like to know how the counsel for the prosecution dares—I say dares—to put such a witness on the stand. This person ought to be in a lunatic asylum."

Counsel (with dignity): "Your honour, this is a most important witness. In the interests of justice, I beg you to give him one more chance."

Judge (becoming calm): "I will try him once more. Now, MacTurk, be very careful to tell us only the facts that bear on this robbery."

MacTurk: "Yer honour, I got up that mornin'—"

Judge (thunderingly): "Stop!"

Counsel (to the rescue): "Where were you, MacTurk, at three o'clock that day?"

MacTurk: "I was goin' down past the lot by Brown's factory."

Counsel: "What did you hear?"

MacTurk : " Whin I was passin' the board fence some-
thin' inside said ' thoo,' and gev a sneeze, and thin some-
thin' ran away. I didn't see it, and it didn't see me.

Judge (interrupting) : " How does this bear on the
robbery ? "

MacTurk : " Sure, yer honour, that was the time the
place was robbed. "

Judge : " Well, did you see any person ? "

MacTurk : " Sorra a one at all, yer honour ; but, as
I said before, I heard somethin'—"

Judge (despairingly) : " Something ? What do you
think it was ? "

MacTurk : " Devil a know, yer honour, it might have
been a goat. But the place was robbed, for sure, and
I think that was the one that done it."

At a dinner some time ago, of the Law Students' Debating Society, the Lord Chief Justice told an amusing witness story concerning one of his early briefs. His client, a fruit merchant, was being sued by a costermonger, who alleged that certain figs he had purchased were unfit for human food. The costermonger, who appeared in person, did not take kindly to the process of cross-examination to which Mr. Isaacs subjected him. " Look you 'ere, guv'nor," said the exasperated suitor, turning to Mr. Isaacs, " some of these 'ere figs is in Court ; if you eat three of them an' ain't sick in five minutes, I'll lose me bloomin' case ! " The Judge called upon Mr. Isaacs to make the experiment, but the learned gentleman declined to risk his professional reputation in so unusual a manner, and suggested that his client should undergo the ordeal. " What will happen," whispered the fruit merchant, " if I don't eat those figs ? " Counsel intimated that he would lose his case. " Well," was the reply, " I would rather do that than eat those figs."

Mr. Justice Channell has a pretty turn of wit, which on occasions is apt to startle witnesses. Once, in reply to a question, a witness indignantly retorted that he had been " wedded to truth from infancy."

"That may be," said Sir Arthur ; "but the question is, how long have you been divorced ? "

Another time a little girl was before him, and he proceeded to ascertain whether she knew the nature of an oath. She replied that she would go to heaven if she told the truth, but would go to the other place if she told lies.

"Are you sure of that, my dear ? " said the Judge.

"Yes, my lord, quite sure."

"Let her be sworn," said the Judge ; "she knows more than I do."

Which reminds one of another boy, who was offered as a witness, and was asked, "Do you go to Sunday-school ? " "Yes, sir." "What do you learn ? " "To speak the truth." "Are you not taught about God ? " "Yes, sir." "What was the oath for, that you heard given to the others ? " "To speak the truth." "Suppose you do not ? " "I shall be burned up with fire and brimstone."

A second boy was brought up, who said that he was eight years old, and answered the first five questions in the affirmative. To the sixth, "Suppose you don't tell the truth," he answered, "Then he won't win his case."

Talking of juvenile witnesses, there is a story told of Mr. Justice Maule, which, while possessing certain elements of humour, illustrates his minute care when presiding over a case. A man was being tried for the murder of an infant, and a little brother of the murdered child was called as a witness. Counsel for the Crown doubted whether the boy, who did not seem to understand the nature of an oath, could be admitted as evidence.

Among other questions, the boy was asked by counsel if he knew what became of people who told lies.

"If he knows that," interposed Maule, "it's a good deal more than I do."

Then Maule himself asked a few questions, which may be summarised as follows :

"What will become of you, my little boy, when you die, if you are so wicked as to tell a lie ? "

“ Hell fire,” promptly replied the boy.

“ Right,” said Maule. “ Now, suppose you were accused of stealing an apple, how would that be in the next world, think you ? ”

“ Hell fire, my lord ! ”

“ Very good indeed. Now, let us suppose that you were disobedient to your parents, or to one of them ; what would happen in that case ? ”

“ Hell fire, my lord ! ”

“ Exactly ; very good indeed. Now suppose you were sent for the milk in the morning, and took just a little sip while you were carrying it home ; how would that be as regards your future state ? ”

“ Hell fire ! ” repeated the boy.

“ He does not seem to be competent,” said the counsel.

“ I beg your pardon,” returned the Judge. “ I think he is a very good little boy. He thinks that for every wilful fault he will go to hell fire ; and he is very likely, while he believes that doctrine, to be most strict in his observance of truth. If you and I believed that such would be the penalty for every act of misconduct we committed, we should be better men than we are. Let the boy be sworn.”

There was quite a different sequel, however, to a somewhat similar incident which happened many years ago at a late assizes in Limerick, when a boy was brought forward as a witness for the prosecution in a case of murder. He appeared so young and so ignorant, that the Judge (Solicitor-General Bushe) thought it necessary to examine him as to his qualifications for a witness, when the following dialogue took place :

Q. “ Do you know, my lad, the nature of an oath ? ”

A. “ An oath ! no.”

Q. “ Do you mean to say that you do not know what an oath is ? ”

A. “ Yes.”

Q. “ Do you know anything of the consequences of telling a lie ? ”

A. “ No.”

Q. "What religion are you of?"

A. "A Catholic."

Q. "Do you ever go to Mass?"

A. "No."

Q. "Did you ever see your priest?"

A. "Yes."

Q. "Did he ever speak to you?"

A. "Oh, yes."

Q. "What did he say to you?"

A. "I met him on the mountain one day, and he bid me hold his horse and be —— to me."

Judge : "Go down ; you are not fit to be sworn."

The story about Mr. Justice Maule calls to mind another in which he figured.

One day he was trying, for an offence of violence, a hypocritical saint, who, as a matter of course, called a number of persons to testify to his character. As is usual on such occasions, their knowledge on the subject was very limited. On one point, however, they laid considerable stress. The prisoner was well known to them as a Bible-reader and a Sunday-school teacher. He was, in fact, in their opinion, the very incarnation of piety and virtue.

The evidence against the accused was overwhelming, and Maule proceeded, in no uncertain language, to sum up for a conviction.

On the conclusion of the learned Judge's remarks, the prisoner's counsel jumped up and said :

"I crave your lordship's pardon, but you have not referred to the prisoner's good character, as proved by a number of witnesses."

"You are right, sir," said his lordship ; and then, addressing the jury, he continued : "Gentlemen, I am requested to draw your attention to the prisoner's character, which has been spoken to by gentlemen, I doubt not, of the greatest respectability and veracity. If you believe them, and also the witnesses for the prosecution, it appears to me that they have established what to many persons may seem incredible, namely, that even

a man of piety and virtue, occupying the position of Bible-reader and Sunday-school teacher, may be guilty of committing a heinous and grossly immoral crime."

A characteristic of Serjeant Armstrong—"big Serjeant," as he was known to members of the Irish Bar—was the manner in which he often ridiculed a witness, and scored through the latter becoming confused and ultimately losing his temper. He once cross-examined an expert in handwriting, when the following scene occurred :

Armstrong : "What about the dog ? "

Witness (confused) : "I do not understand."

Armstrong (slowly and deliberately) : "What—about—the—dog ? "

Witness (yet more perplexed) : "My lord, I do not understand what the Serjeant means."

The Judge : "Neither do I."

Armstrong (taking not the least notice of either witness or Judge, but repeating the question yet more slowly and deliberately) : "What—about—the—dog ? "

Witness (losing all patience and bursting out angrily) : "What dog ? "

The Serjeant : "The dog that Chief Baron Pigott said he would not hang on your evidence."

Scarlett (Lord Abinger) was another counsel who delighted to indulge in a little banter with a witness. On one occasion, when an overdressed man entered the witness-box and gave his evidence in a supercilious manner, the following dialogue ensued :

"Mr. John Tompkins, I believe ? "

"Yes, sir."

"You are a stockbroker—eh ? "

"I ham ! "

Scarlett eyed him for a moment, and, with a sly glance at the jury, said :

"And a very well-dressed ham, too, sir ! "

There is also a story of Lockwood, who was once cross-examining a detective in a divorce case. The witness was dressed in well-cut broadcloth, he was portly, a

massive gold chain and seals hung from his fob ; he might have passed for a country banker or solicitor of the old style.

Sir Frank (very politely) : " I believe you are a member of the eminent firm of detectives, Messrs. Blater & Co ? "

Witness : " Yes, sir, I represent that firm."

Sir Frank : " And I presume, in the course of your professional duties, you have to assume many disguises ? "

Witness : " Yes, sir."

Sir Frank : " Pray, may I ask what you are disguised as now ? "

Referring again for a moment to oath stories, it might be mentioned that they are not confined solely to youngsters.

" Do you understand the nature of an oath ? " said counsel, on one occasion to a witness, who seemed to be of somewhat inferior intellectual attainments.

" Sir ? "

Counsel : " Do you understand the nature of an oath, I say ? "

Witness (impressively) : " Sir, I have driven a keb in this city for nigh on forty years."

Which calls to mind the following dialogues which occurred one day at Tower Bridge Police Court.

Solicitor : " You understand the nature of an oath, don't you ? "

Lady (rather flurried) : " I beg your pardon ? "

Solicitor (testily) : " What is the nature of an oath ? "

Lady (triumphantly) : " Profane, isn't it ? "

The Clerk of the Court (bending a questioning face on the witness in the box) : " My good woman, do you understand the nature of an oath ? " " Well, sir," replied she, with an air of conviction, " seein' that my 'usband 'as been a porter at Billingsgate for well-nigh thirty years, I should say I do."

There is a story of another clerk who addressed a woman, and said to her sternly : " Take the book and swear." " But," pleaded she, " I have done nothing of the sort in my life before." " Never mind," said he,

"you must do it now." "Am I bound . . . ?" faltered the perspiring witness. "Yes, yes, you are bound." "Well, then," said she, "if I must I must," and in good round oaths she consigned judge, jury, witnesses and counsel to the lowest depths of perdition.

Very naive are the replies of some witnesses. During the trial of an action relating to a claim on a fire insurance policy, the counsel for the plaintiff—the policy-holder—said to the company's surveyor, who was under cross-examination: "Now, will you kindly tell me what report you made after you had visited the premises?" "Well," replied the surveyor, "I said that the senior partner stated that the fire took place owing to an arc light on the ground floor; the junior partner stated that it took place owing to an incandescent light on the first floor; but that, in my opinion, it took place owing to an Israelite in the basement."

Counsel (to witness): "Now, did you spend the next day with defendant?"

Witness: "I did."

Counsel: "Did you lunch with him?"

Witness: "No."

Counsel: "Why?"

Witness: "The defendant is a Scotchman."

Judge (to witness): "Then you were present at the beginning of the quarrel between the couple?"

Witness: "Certainly, your worship; that was three years ago."

Judge: "What! so long back as that?"

Witness: "Yes—I was one of the guests at the wedding."

An old woman being cross-examined, was asked by the counsel how she explained an obvious untruth. She replied: "I'm sorry, sir, but I lost my presence of mind."

A policeman, giving evidence against an alien, stated that he was altogether a bad lot, so that he would strongly recommend him for deportation; while another witness, being asked by counsel as to his forbears, replied that "they were poor, but dishonest."

Said the mayor to the constable who was guarding the prisoner at the Bar : " The defendant is behaving in a very remarkable manner. Is he mad, drunk, or a fool ? " " A blend of the three, I think, your washup," replied the man in blue.

There is, however, nothing which delights the Court more than when a witness scores off a would-be witty counsel.

An expert witness was being cross-examined in the Committee-Room of the House of Commons by a well known Parliamentary barrister. " Come, come, Mr. So-and-so," said the counsel, " let me remind you of what happened to Balaam." " Yes," said the witness, " I know ; and you will remember that it was the ass that warned him."

" Yes, I know," said the cross-examining counsel in response to a suggestion by the witness that a monetary payment had induced one of the parties to take a certain course ; " money talks all the time." " I agree," answered the witness, " particularly when it takes the form of a big fee on a brief."

And here is an encounter which took place between witness and counsel in another case. Counsel : " Did you speak jocosely ? " Witness : " I do not know him." Counsel (not exactly comprehending) : " Did you speak jocosely ? " Witness (angrily) : " I tell you I don't know Jo. Closely."

In an accident case, after the witness had testified to the facts, counsel said to him : " What did you do then ? " To which witness replied : " I went to the rescue, as a lawyer goes for a man's pocket-book."

An Irish witness was asked : " What do you know of the defendant's reputation ? " " Faith, I know this, that rather than live with her I'd marry the devil's daughter and go home and live with the old folks."

A doctor, who had borne patiently the bullying of the young and bumptious barrister for the prosecution, was asked : " You claim to be acquainted with the various symptoms attending concussion of the brain ? " " I do,"

he answered. "We will take a concrete case," continued counsel. "If my learned friend, counsel for the defence, and myself were to bang our heads together, should we get concussion of the brain?" The man of medicine surveyed the barrister for a moment, and then answered with a smile: "The probabilities are the counsel for the defence would."

There was a certain learned counsel who prided himself on the juvenility of his appearance, and boasted that he looked twenty years younger than he was. He was cross-examining a very prepossessing and uncommonly self-possessed young woman as to the age of a person whom she knew quite well, but could get no satisfactory answer.

"Well," he persisted, "but surely you must have been able to make a good guess at his age, having seen him so often."

"People don't always look their age."

"No, but you can generally form a good idea from your looks. Now, how old would you say I am?"

"You might be sixty by your looks, but judging by the questions you ask I should say about sixteen."

The witness had testified that the defendant had been at his house during the time the offence was committed, and that among others present at the time was a Mrs. Robinson. "Mrs. Robinson was a neighbour of yours?" suggested the prosecuting counsel. "Yes." "Is she here?" "No." "Do you know where she is?" "No." "How dare you, sir," demanded the barrister, "how dare you trifle with the Court in this way? You say Mrs. Robinson is your neighbour, and yet you do not know where she is. Tell his lordship this instant where she is." "Well," answered the witness, "she's dead; and I don't think even his lordship can tell us where she is."

"Now, sir," said counsel for the prosecution, after a very severe cross-examination of a witness, "has not an effort been made to induce you to tell a different story?" "A different story from what I've told?" "That is

what I mean." "Yes, sir, several persons have tried to get me to tell a different story from what I've told, but they couldn't." "Now, sir," sternly demanded the barrister, "upon your oath—upon your oath, remember!—I ask you who those unprincipled people are." "Well," came the crushing retort, which threw the Court into convulsions of laughter, "I guess you've tried as hard as any of them."

Cross-examination, however, is always a dangerous art, and often counsel's weapon recoils upon himself. Some time ago at the Clerkenwell County Court a good example of the dangers to which an over-insistent barrister exposes himself was the cause of much amusement to those in Court.

"Do you," asked the learned gentleman of a witness, "do you drink?" The man was not going to commit himself, but answered: "Well, that depends what you call drink." "I call drink 'drink'—what else do you expect?" said the man of law, testily.

"Well, in that case, I do drink," answered the witness.

"Do you drink heavily?" was the next poser.

"Well, that again is a question as to what you call 'heavily,'" came the guarded reply.

"Do you ever take more than is good for you?"

"I drink until I am satisfied."

"Does that take long?"

"No."

So the interrogatory went on till the counsel cornered his man to the question he had had in his mind all the while.

"Do you ever take too much?"

"No," said the innocent witness, "unless you consider one cup of tea in the morning and another in the afternoon too much."

"Come, come," said the barrister, "I am speaking of intoxicating liquors."

"Oh," said the man, "I am a teetotaler!"

That finished the cross-examination.

That a barrister is not always on safe ground even with

his own client, was shown not long ago at an assize Court on the South-Eastern Circuit. A prisoner charged with larceny from the person, leaned over the front of the box and handed a "dock guinea" to a smart young junior, whose face he seemed to know. "You defended me once before, sir—do you remember?—and got me off. It was at Hertford Sessions, sir—for stealin' a watch." "For the alleged stealing of a watch, you mean," corrected the barrister, as he pocketed the fee. "Alleged be blowed," replied the man promptly. "Why, I've got the watch at 'ome now!"

Of the unconscious humour of witnesses the following are by no means bad examples. Magistrate: "I understand, then, that, after heckling the candidate, the defendant became very violent and abusive?" Constable: "Yes, sir." "And so," continued the magistrate, "you used drastic measures to remove him?" Constable: "No, sir, I used my truncheon."

In a breach of promise case the defendant was under severe cross-examination by the young lady's counsel. "Now, sir," counsel asked, "am I to understand that you pressed your suit during the autumn of 1908?" "No, sir," was the guileless answer, "I didn't press my suit at all—I bought a new one."

A witness once scored off Ballantine with amusing effect. A veterinary surgeon had been called in to prove that a certain horse was a roarer. Ballantine, who was on the other side, in his best Mephistophelean manner said to the witness:

"If you say that my client's horse was a roarer, just represent to the jury the sort of noise he made."

"No," said the vet., "you see that is not my business. Now if you will be the horse and make the noise, I, as veterinary surgeon, will determine whether you are a roarer or not."

Sergeant Ballantine sat down.

It was a right-of-way case, concerning an ancient foot-path over the fields of an estate which had lately passed from an old family into the hands of a rich upstart. The

dispute was carried to the law courts, and the lawyer appearing on behalf of the new landowner cross-examined a venerable yokel, who had testified to his own personal knowledge there had been a right-of-way over the disputed land ever since he was a boy of five.

"And how old are you now?" asked the lawyer.

"Eighty-five, sir."

"But surely you can't remember things that occurred when you were a boy of five, eighty years ago?" said the lawyer, in affected incredulity.

"Deed, an' I can, sir. I can mind a year afore that, when your feyther, sir, 'owd Skinflint George, us called him—"

"That will do; you may stand down," said the lawyer hastily, reddening furiously as a titter ran round the court

"—got a walloping from Mother Buncombe—"

"Stand down, sir!"

"—for chatin' her two-year-owd lass—"

"Do you hear? Stand down!"

"—a farden out o' the change o' a thrupenny-bit!" concluded the venerable witness, triumphantly, as he slowly left the box.

Perhaps one of the most ludicrous witness stories, however, is that related by Mr. F. E. Smith, K.C., M.P. He was once engaged in a County Court in which the plaintiff's son, a lad of eight years, was to appear as a witness. When the youngster entered the box he wore boots several sizes too large, a hat that almost hid his face, long trousers, rolled up so that the baggy knees were at his ankles, and, to complete the picture, a swallow-tail coat that had to be held up to keep it from sweeping the floor. The ludicrous picture was too much for the court, but the judge, between his spasms of laughter, managed to ask the boy his reason for appearing in such a garb. With wondering look, the lad fished in an inner pocket and hauled the summons from it, pointing out a sentence with solemn mien as he did so. "To appear in his father's suit," it read.

The "reliability" of the expert witness is illustrated

by an incident in the life of Sir Henry Hawkins. He tells of Mr. Nethercliffe, who was an expert in handwriting. On one occasion Hawkins handed to the expert six slips of paper, each of which was written in a different handwriting. Nethercliffe took out his large pair of spectacles—magnifiers—which he always carried, saying “I see, Mr. Hawkins, what you are going to try to do—you want to put me in a hole.” “I do, Mr. Nethercliffe; and if you are ready for the hole, tell me—were those six pieces of paper written by one hand at about the same time?” He examined them carefully, and, after a considerable time answered: “No; they were written at different times and by different hands.” “By different persons, do you say?” asked Hawkins. “Yes; certainly.” “Now, Mr. Nethercliffe, you are in the hole. I wrote them myself this morning at this desk.”

This was a case of pure error, but Mr. Hawkins on another occasion cross-examined Mr. Nethercliffe on other lines. “You educated your son in your own profession, I believe, Mr. Nethercliffe?” “I did, sir, I hope there was no harm in that, Mr. Hawkins.” “Not in the least; it is a lucrative profession. Was he a diligent student?” “He was.” “And became as good an expert as his father, I hope?” “Even better, I should say, if possible.” “I think you profess to be infallible, do you not?” “That is true, Mr. Hawkins, though I say it.” “And your son, who, as you say, is even better than yourself, is he as infallible as you?” “Certainly, he ought to be. Why not?” Hawkins then put this question: “Have you and your son been sometimes employed on opposite sides in a case?” “That is hardly a fair question, Mr. Hawkins.” “Let me give you an instance. In Lady D—’s case, which has recently been tried, did not your son swear one way and you another?” He did not deny it; whereupon Hawkins added: “It seems strange that two infallibles should contradict one another!”

One of the best Irish witness stories concerns a cross, hawking judge, who was forced to laugh by an Irish

inspector's wit. A man had been caught setting fire to his house. It was a clear case of arson. At the trial the judge cross-examined the inspector very severely :

" You arrested the prisoner ? "

" Yes, my lord."

" Was he very frightened ? "

" Terribly scared, my lord."

" You searched the prisoner—what did you find ? "

" I found, my lord, the ' Key of Heaven ' (a Catholic prayer-book) in one pocket, and his insurance policy in the other. He was prepared for both worlds, my lord."

The story of the flurried witness in an Admiralty Division case is rather funny. The case had reference to a Thames collision, and a question arose as to how far the colliding ship was seen before one came into contact with the other. The witness in the box was a bluff, hearty seaman ; but he seemed to have an attack of nerves, and got very confused in cross-examination as to distances between the ships before the collision occurred.

Counsel, in a stern voice, then put the following poser to the witness : " Now, sir, attend to my question, and be very careful how you answer it. How many yards are there in a mile ? "

The witness scratched his head, seemed nonplussed, and became very red in the face. At last he said, " Look here, guv'nor, let me get out of this Court, walk quietly up and down in the corridor with you arm-in-arm, and I'll tell yer. But, upon my soul, I can't tell yer here."

As an example of the obtuse seafaring witness, however, the gentleman referred to in the following story deserves a niche to himself.

" You say your boat picked up the accused at nine o'clock," said the barrister wearily, but still determined to gain some ground. " Now, it has been stated that he jumped overboard nearly an hour before that time. Tell me, Captain Black, how he appeared to you when you picked him up. If you had been asked to give an opinion of him then, what would you have said ? "

Then came a long pause. The Captain looked thought-

ful, then stroked his beard. "A-ah, well," he answered eventually, "I tell you candid now, if somebody asked me then, just when we took him aboard, what I thought of him, I should have said, straight out, insult or no insult, that he was one of the wettest men, if not the **very** wettest man, that I ever seed!"

HUMOURS OF THE JURY BOX

CHAPTER XI

HUMOURS OF THE JURY BOX

“ I do not deny
The Jury, passing on the prisoner’s life,
May, in a sworn twelve, have a thief or two
Guiltier than him they try.”

Shakespeare.

FROM time immemorial it has been the custom to poke fun at the “ twelve good men and true,” who, according to their consciences, beliefs and interpretation of the judge’s summing up, have been called upon to bring in the verdict. There are many, of course, who assert that our jury system is farcical—that the majority of people would much prefer to be tried by a judge, rather than trust themselves to the “ tender mercy ” of a jury, because they would then be appealing to a higher order of intelligence, and because, while the emotions very frequently influence a jury, a judge simply weighs facts and administers law.

Certainly juries are a wonderful and fearful assortment of men at times. Which is scarcely surprising when one considers that it is an anomaly of the English law that a juryman’s intelligence should be measured by his rent roll or by his rate receipts. Thus, a common juror must occupy a house for which he pays £20 or £30 rent, according to the county in which he resides. Furthermore, his house must contain not fewer than fifteen windows—a survival of the influence of the old window tax. On the other hand, a special juror must be an esquire or person of higher degree—a banker, merchant, or householder occupying a private dwelling-place assessed to the poor rates or to the inhabited house duty on a value of not

less than £100 in a town of not fewer than 20,000 inhabitants and upwards, or £50 elsewhere. Special jurymen try the more important class of commercial and divorce cases, and are paid one guinea a day for their services, while the common jurymen try minor cases, and are paid one shilling for each case.

This system of choosing has been condemned by many lawyers and judges as being farcical in itself, for, while it may be satisfying to those in civil cases who can afford to call a special jury with a view to securing "higher intelligence," it is unfair to poorer people, who, because of lack of means, must rely for a verdict upon the "lower intelligence," which the law practically says is represented by men who cannot afford to pay more than £30 a year rent. As one lawyer has put it :

"This method is about as sensible as that of choosing a jury according to streets, the result often being that half are neighbours, a fact which may have a distinctly unfair influence on the verdict."

A specimen common jury was described a short time ago by Mr. Kenyon, Chief Associate at the Law Courts. It included a laundryman, cowkeeper, clerk, coffee-house keeper, butler, farrier, milkman, and hairdresser.

A special jury panel, where the intelligence is supposed to be high, included publicans, hairdressers, boarding-house keepers, lamp-lighters, horse dealers, greengrocers, butchers, waiters, and artists.

In the famous case of *Wyler v. Lewis*, which altogether lasted over fifteen years, and was known as the "Everlasting Law Suit," a King's Bench trial, occupying thirty-three days, was heard by a jury which included a fishmonger, pawnbroker, upholsterer, hospital secretary, bootmaker, confectioner, draper, tailor, fruiterer, ironmonger, and lace merchant. The case arose out of a dispute between two groups of financiers over concessions in Portuguese East Africa, and was one of the most costly and intricate financial suits ever before a law court.

No less an authority than Lord Alverstone has given it as his opinion that we have not the service of the same

class of jurors now as we used to have when he practised in the old Guildhall.

Sir George Lewis has told how in many libel cases, juries, when sent to consider their verdict, are divided in opinion, and, in order to arrive at a verdict, some of them have to be persuaded, and often over-persuaded, so that when the verdict is given they are not giving their opinion at all, but the opinion of the majority of the jurymen.

“They are often unable,” he said, “to agree as to the amount of the damages which should be awarded, and there is a system which I know frequently prevails—because jurymen have told me of it—that each jurymen writes down the amount which he considers ought to be awarded, and the aggregate sum is divided by twelve. The result is that those jurymen who are perhaps more acute than the others, and are anxious for large damages, put down a much larger sum than they think ought to be awarded, in order, when the division takes place, to secure large damages, and the consequence is, of course, that the result is often very unfair.

Curiously enough, although abuses of the jury system in the old days were much more flagrant than they are to-day, it met with considerable commendation. Writes a legal chronicler of nearly one hundred years ago: “Nothing can afford greater security to the due administration of justice, than the independence of juries; and so watchful are the laws in this respect, that a jury is not suffered to separate without giving a verdict, nor to hold the least conversation with any individual. They are even, although kept up all night, not suffered to have either fire or candle, unless by the special permission of the Court.

“It was, however, far different in former times; and it shocks our ideas of propriety to see how juries were then treated and feasted. Sir Thomas Smith mentions that in his time it was usual for the party who obtained the verdict to give the jury a dinner; ‘and this,’ says he, ‘is all they have for their labour, notwithstanding that they come some twenty, some thirty, or forty miles, or

more, to the place where they give their verdicts ; all the rest is at their own charge.' In criminal matters, not capital, the jury were formerly paid, *if they acquitted the prisoner* ; but not if they found him guilty ; but in the prosecution for the Popish Plot, in Charles the Second's reign, the jury had more, and were treated higher, if they convicted a prisoner, than if they acquitted him. In capital matters, it was never allowed to pay the jury, be their verdict which way it would."

On the trial of the seven bishops, the jury were locked up all night, without either fire or candle ; they could not agree in a verdict, owing to the obstinacy of one Arnold, the king's brewer. In Tanner's collection, in the Bodleian Library, Vol. XXVIII., there is the following curious letter on the treatment of this jury :

" John Ince, to the Archbishop of Canterbury.

" *June 30, 1688.*

" **MAY IT PLEASE YOUR GRACE,**

" We have watched the jury carefully all night, attending without the door on the stair head. They have, by order, been kept all night without fire or candle, save only some basins of water and towels this morning about four. The officers and our servants, and others hired by us to watch the officers, have, and shall constantly attend, but must be supplied with fresh men to relieve our guard, if need be.

" I am informed by my servant and Mr. Granges, that about midnight, they were very loud among one another ; and that the like happened about three this morning, which makes me collect they are not yet agreed. They beg for a candle to light their pipes ; but are denied.

" In case a verdict pass for us, which God grant in His own best time, the present consideration will be how the jury shall be treated. The course is usually, each man so many guineas, and a common dinner for them all. The quantum is at your grace's and my lord's desire. But it seems to my poor understanding, that the dinner might be spared, lest our watchful enemies should interpret it

against us. It may be ordered thus: to each man — guineas for his trouble, and each man a guinea over for his own desire.

“ My lord, your Grace’s most humble servant,
“ JOHN INCE.”

“ *N.B.*—There must be 150 or 200 guineas provided.”

Into the merits or demerits of our jury system, however, it is not proposed to enter here. But these amusing features connected with the system, make one wonder whether those people who describe it as “ farcical,” are not quite justified in doing so. At the same time, it is only fair to point out that while many stories have been told of juries, who, by their ignorance have created amusing scenes in Court, as a rule they carry out their duties in a manner which must be eminently satisfactory to the champions of our present judicial system.

As a well-known K.C. has remarked: “ While a most interesting book might be written on the humours of British juries, I am convinced from a long experience, that they do their very best, and with, on the whole, satisfactory results, to execute justice.”

It is contended that all juries should be chosen irrespective of financial position, for it often happens that a poor man possesses a much higher degree of intelligence than his more well-to-do neighbours. In any case, neither can be said to have any particular qualifications to decide technical civil actions, no matter how lucid the counsel’s and judge’s summing-up may be. Here is a notable instance of the ludicrous attitude of a jury.

An important civil action was tried before the late Mr. Justice Jelf. The judge had devoted many hours to a lucid and painstaking summing-up of the case, and the jury had spent half of another day in consultation, when at last they returned into Court, to the manifest relief of everybody present. It was only, however, to explain that they could not arrive at a decision. “ What is your difficulty ? ” asked the judge, impatiently. “ If you please, your lordship,” answered the foreman, tugging

at his forelock, "we wants to know what all this 'ere case is about!"

Perhaps one of the most amusing verdicts returned by a jury was that given in a case in which the prisoner was charged with wilful murder. From the evidence it was very doubtful whether the deceased died from a blow struck by the accused, for from a purely accidental fall on a doorstep; and the jury, after grappling with the problem for some hours, delivered this singular verdict: "We find that the deceased died from a blow; if the prisoner administered the blow it was wilful murder; if it was the doorstep it was manslaughter."

In a somewhat similar case, the jury were unable to determine the cause of death, and they returned into court with a verdict, delivered by the foreman in this poetic form:

"Deceased died from a violent blow.

By—by whom 'twas struck we do not know."

As the evidence clearly pointed to the conviction of the prisoner, the verdict was a surprise to everyone in Court, and especially to the presiding judge, the late Mr. Justice Cave, who, with a twinkle in his eye, convulsed the Court by saying:

"This verdict will not do, you know.

So back again you'd better go."

As an illustration of the simple-mindedness of some juries, the following would be hard to beat:

"Unanimous—nine to three"; and "not guilty, but we recommend him not to do it again," said one jury, after prolonged deliberation. Though there was nothing simple-minded about that Nebraska jury who, without leaving the box, returned this remarkable verdict: "We, the jury in the above-named case, do not believe one word the witnesses have sworn to; neither do we believe that any of the attorneys have spoken the truth, nor that they could do so even if they should care to take the trouble to try."

Some juries find a simple way out of a disagreement

by the expedient of tossing up a coin—heads, “ guilty,” tails, “ not guilty ” ; which, haphazard as it may be, is at least more satisfactory than the solution hit upon by a Gloucester jury some time ago. At the foreman’s suggestion each man wrote his verdict on a slip of paper ; agreeing to abide by the decision of the majority. The slips were put into a hat ; but, alas ! on examination, the foreman discovered that the slips outnumbered the jury-men by four, thus proving that the honest British juryman is not always averse to stealing a march on his fellows.

A case was tried a few years ago, which illustrates the way some juries shirk the responsibilities and violate their oaths to “ well and truly try.” This was an action on a bill of exchange for £50. Defendant pleaded that the plaintiff accepted goods in satisfaction. There was no evidence of part satisfaction ; it was all or nothing. The jury, however, gave a verdict for £25. The Court came to the conclusion that the jury, being unable to agree, had “ split the difference,” and ordered a new trial accordingly.

A good example of the eccentric findings of muddled jury-men, is afforded by the story of a certain inquest, when the foreman of the jury said the verdict was “ Accidental death, but no cause to show.”

Coroner : “ Then why do you say accidental if you have no cause to show it was ? ”

Foreman : “ We have no cause to show it wasn’t ; so there it is.”

Coroner : “ Then you think it was an accident ? ”

Foreman : “ I suppose that is what we mean, but we don’t understand inquests much.”

Perhaps the best story in connection with juries, however, is one which has been told by Lord Eldon. His lordship, noticing during the progress of a trial that one of the jury-men was absent, said : “ There are only eleven jury-men ; where is the twelfth ? ” “ Please, my lord,” said one of the eleven, “ he has gone away about some business, but he has left his vote with me.”

There was a case when a man actually guilty of murder

was set free by a jury. The prisoner, who had a very bad record, was committed to take his trial at the London Sessions. The grand jury threw out the bill against the man, greatly to the surprise of Sir William Hardman, who returned the document to the jury with the suggestion that probably some mistake had been made. The foreman initialed the bill and sent it back.

Sir William imagined that the grand jurymen had reconsidered their previous decision. When called upon to plead, the prisoner declared frankly that he was guilty, and was thereupon remanded, to come up for sentence later in the day. A minute or so afterwards the foreman intimated that his initials on the bill were meant to emphasize the original finding of the grand jury. Prisoner having been brought back into Court, "The grand jury," said Sir William, "believe you are innocent. You have told us you are guilty. I have no alternative but to discharge you from custody."

This calls to mind a remarkable story, told by Major-General Sir Alfred E. Turner, who, in the 'eighties, when the Fenian scare was at its height, was acting as first A.D.C. and Military Private Secretary to the Viceroy, Lord Spencer.

A small landlord, Mr. Creagh, was fired at. The gun used by his assailant exploded, and the police, on examining the spot, found a thumb and a pool of blood. On a search being made, a man was arrested in bed in a neighbouring cabin who was minus his thumb. He was arrested and tried, making scarcely any attempt to defend himself. The judge charged straight for conviction, but the jury promptly acquitted the prisoner. The judge was furious and adjourned the assizes; but before he left the Bench the head constable held up a bottle of spirits of wine, in which was floating a thumb, and asked his lordship: "What am I to do with the thumb, my lord?" "Give it to the owner," replied the angry Justice; and the bottle, with its contents, was actually handed to the would-be assassin as he was leaving the dock.

There have been many serious cases, however, in which

juries have acted quite contrary to common reasoning and the judge's summing-up. There was one case (and the story has been told by the late Baron Brampton) in which the prisoner was charged with a most terrible murder, and the evidence was too clear to leave a doubt as to his guilt.

The jury retired to consider their verdict, and were away so long that the judge sent for them and asked if there was any point upon which he could enlighten them. They answered no, and thought they understood the case perfectly well.

After a great deal of further discussion they brought in a verdict of "Not Guilty."

The judge was angry at so outrageous a violation of their plain duty, and did what he ought not to have done, namely—asked the reason they brought in such a verdict, when they knew the culprit was guilty and ought to have been hanged.

"That's just it, my lord," said the foreman of this distinguished body. "I assure you we had no doubt about the prisoner's guilt, but we thought there had been deaths enough in the family lately, and so gave him the benefit of the doubt."

This is equalled by the decision arrived at in a murder trial in New York City some years ago. A young waitress married a butcher's assistant, and circumstances compelled her to return temporarily to her parents' home at New Jersey. Subsequently returning to New York, she found her home broken up, while her husband had disappeared. On going to her husband's place of employment, the deserted wife found him talking to a female who was wearing some clothes belonging to the aggrieved woman. The next day the butcher died from eating a poisoned cake. The police then ascertained that the man had three wives, all of whom were arrested. Two of these were released, as the waitress admitted her guilt. The case was proved beyond doubt. After a few minutes absence the jury returned into Court and gave a verdict of "Not Guilty." Prisoner's counsel was naturally

agreeably surprised at the result. On inquiring of one of the jurors on what ground the woman had been acquitted, the reply was : "It served him right."

Some extraordinary decisions are recorded in the annals of the Irish Courts. On one occasion in an Irish Court, the prisoner pleaded guilty, throwing himself on the mercy of the Court. To the consternation of everyone, the jury found the man "Not Guilty." The judge, in utter astonishment, exclaimed : "Why, the man has already confessed his guilt." The foreman replied : "Ah, my lord, you do not know that fellow, but we do. He is the most notorious liar in the whole country. No twelve men, knowing his character, can believe a word he says." The jury obstinately adhered to this decision, and the culprit escaped.

And the following was the verdict of a jury at a coroner's inquest in the County of Tyrone :

"An unknown female child was found in the house of Ann Gillespie, on Tuesday, August 26th, 1902, and from the medical testimony produced we are of opinion that the said unknown female child was living when born, and died from asphyxie immediately after death."

It is recorded that at a trial in Wales on one occasion the jury returned a verdict of "Not Guilty, but we recommend him not to do it again." A rural jury in England once had a prisoner before them charged with burglary, and being unwilling to convict him, gave the remarkable verdict, "Guilty of getting out of the window."

It is Mr. Gill, K.C., who tells the story of how a jurymen once turned the tables on him. "It was in a case years ago," he says, "in which I was defending a man charged with embezzlement ; and during the prosecuting counsel's address to the jury, I was amused and delighted to find one of their number to all appearances sleeping tranquilly. Interrupting my opponent for a moment, I addressed the judge thus : 'May I draw your lordship's attention to the fact that one of the jury is so little impressed by my friend's arguments that he is fast asleep ?'

"Don't you make any mistake, sir," came like a flash

from the jury-box ; ' I'm very wide awake, as you'll soon find out.' And I did find out ; for the jury returned a verdict of guilty against my client, and I afterwards heard that it was chiefly through the obstinate insistence of my somnolent friend."

As most people are perhaps aware, a prisoner has the right to object to a certain number of jurors, without giving any reason for his challenge, for the " law wills not that a prisoner should be tried by any one man against whom he has conceived a prejudice." In one case a man was charged with manslaughter, and he objected to a particular juror whom he happened to know. With an expression of surprise and disgust the man called out : " Hang me, Jack, if you arn't a fool. Why, man, I was going to acquit you."

In addressing the Grand Jury, the Judge generally indulges in a long and careful speech, expository of their duties, together with a preliminary skirmish with the salient points of the principal cases about to be tried. To Judge Foster belongs the honour of having given the shortest charge upon record.

" Gentlemen, the weather is extremely hot, I am very old, and you are very well acquainted with what is your duty. I have no doubt you will practise it."

One of the briefest summings-up on record was that of Mr. Justice Maule, who thus addressed the jury on one memorable occasion. " Gentlemen of the jury," he is reported to have said, " if you don't believe the witnesses for the plaintiff, you will find for the defendant. If you don't believe the witnesses for the defendant, you will find for the plaintiff. If, like myself, you don't believe any of them, Heaven knows which way you will find. Consider your verdict."

A still more concise summing-up in a civil case has been attributed to Baron Bramwell. The defendant's counsel closed his case without calling a witness, whose coming had been much expected. " Don't you call Jones, Mr. Blank ? " said the judge, significantly at the close of counsel's address. " I do not, my lord," replied the

advocate. The judge turned round to the jury and gave vent to a low and prolonged whistle. "Whe-e-ew," he said, or rather whistled. "Gentlemen, consider your verdict." This is probably the shortest and most intelligible example on record.

There was also an occasion when a prisoner was tried before Mr. Justice Hawkins in an assize-town for stealing a ham. The day was extremely hot; counsel were unusually long-winded; and the ham perspired in a crowded Court. When at last the time arrived for the judicial summing-up, his lordship, concealing a yawn with his hand, said: "There, gentlemen, is the prisoner; and there, gentlemen, is the ham. Consider your verdict,"—an epitome of the case which sent the jury into explosions of laughter.

As an example of sarcastic summing-up the following deserves to be placed on record. A man was charged before Justice Lawson with stealing a pig. The evidence of the theft was quite conclusive, and, in fact, was not combated; but the prisoner called the priests and neighbours to attest to his good character. "Gentlemen of the jury," said the judge, "I think the only conclusion you can arrive at is that the pig was stolen by the prisoner, and that he is one of the nicest men in the country."

There are occasions, however, when a judge can be too subtle in his humour. Lord Bowen once addressed a Welsh jury thus in regard to a flagrant case of burglary: "If you believe that the prisoner considered the housetops the proper place for an evening stroll, and that his desire to inspect the interior of the house was but a natural and excusable one, you will acquit him, and will approve his conduct in showing so much consideration as to take off his boots for fear of disturbing the sleepers." The jury were delighted at this humorous presentment of the case—and, to his lordship's consternation, promptly returned a verdict of "Not Guilty."

Talking of summings-up and instructions to juries, tradition says that in the wilds of Cornwall the jury, after

a murder trial, was thus addressed by a clerk who had mislaid the form of oath and endeavoured to repeat it from memory. Taken down by an enterprising junior, it ran as follows : " You shall keep this jury in some private inconvenient place, without meat, drink, fire or clothing. You shall not suffer them to speak to one another, neither shall you speak to them yourself, except to tell them what their verdict should be. So help you God ! "

Referring for a moment to Judge Foster's unique address to the grand jury, it might be mentioned that at that period it was the custom for the jurymen to stand the whole time the judge was addressing them.

While some judges, however, did not always insist upon the due observance of this "standing rule," Lord Eskgrove was remarkable for the fact that on no occasion would he permit it to be disregarded. He was also remarkable for his tediousness. Says Lord Cockburn :

" Often have I gone back to the Court at midnight and found him whom I had left mumbling hours before still talking on to the smoky tallow candles in greasy tin candlesticks and the poor, despondent jurymen, while the other portion of his audience were asleep, the wagging of his lordship's nose and chin being the chief sign that he was still charging."

The average juryman is not very well versed in the fine distinctions of the law. On those he needs instruction from the judge. It must have been a very obtuse jurymen, however, to whom the case was not perfectly clear after listening to the following explanation by a judge in the Far West :

" Gentlemen," he stated, with admirable lucidity, " murder is where a man is murderously killed. The killer in such a case is a murderer. Now, murder by poison is just as much murder as murder with a gun, pistol, or knife. It is the simple act of murdering that constitutes murder in the eye of the law. Don't let the idea of murder and manslaughter confound you. Murder is one thing ; manslaughter is quite another. Consequently, if there has been a murder, and it is not manslaughter,

then it must be murder. Don't let this point escape you. Self-murder has nothing to do with this case. According to Blackstone, and other legal writers, one man cannot commit *felo-de-se* upon another ; and this is my opinion.

" Gentlemen, murder is murder. The murder of a brother is called fratricide, the murder of a father is called parricide, but that don't enter into this case. As I have said before, murder is emphatically murder.

" You will consider your verdict, gentlemen, and make up your minds according to the law and the evidence, not forgetting the explanation I have given you."

Judge Rentoul's summing-up on one occasion to a third jury was enlivened with a little story. He begged them, if they could, to come to an agreement. " Gentlemen," he said, " if there are ten or eleven of you who are of one opinion, and one or two who are of the other, those one or two may well say to themselves : ' Here are ten intelligent men who have heard the same as I have, and are just as well qualified as I am to form an opinion. May it not be that they are right and I am wrong ? ' " And then he went on : " I remember a case in which the judge had formed a very strong opinion of the guilt of the prisoner, so strong that he summed up dead for a conviction, and expressed his opinion very plainly. By-and-bye the jury came back, and said they disagreed. By some mistake they let out that they were eleven one way and one the other, and the judge asked the one jurymen how he presumed to persist in his opinions when eleven, who had just as good opportunities as he had, were all agreed to the contrary. ' Well, my lord,' said the jurymen, ' I am the only one who agrees with your lordship.' "

This obdurate, if too zealous, juror has had many fellows, of whom some amusing stories are told. A friend of Mr. Justice Jelf was once serving on a special jury, whose deliberations threatened to be protracted till the Greek kalends by the obstinacy of one of their number. Thinking to while away the time, the judge's friend lit a

cigarette and enveloped himself in grateful clouds of smoke. "I object to smoking, sir," gasped the contumacious one; "it always makes me ill." "I am glad to hear that," calmly replied the smoker, puffing more vigorously than ever, as he handed round his cigarette-case. Every one of the ten lit up, and their combined whiffs soon brought the dissentient to his knees.

It was such a man who, when he was taken to task by the judge for his obstinacy, protested: "My lud, no man is more open than I am to conviction, but I have not met with the same consideration in others. It has generally been my lot to be on a jury with eleven of the most obstinate men, who will not listen to reason!"

That there are obliging jurymen, however, can be testified to by a certain gentleman, who, summoned on a common jury, found, after the "twelve good men and true" had retired to consider the evidence, that the foreman and five of the other jurors were neighbours and bosom chums, who decided that, although the evidence was conclusive against the prisoner, they would, as they put it, "vote for letting him off," as they did not wish to punish anyone. Ultimately, after some discussion, the foreman exclaimed: "Well, we'll vote as you like, only let's get out of this, so as we can have dinner." This resulted in a verdict against the prisoner, of course.

One of the most amusing features of the jury system are the ingenious excuses brought forward by unwilling servers who wish to be relieved from the duties entailed by the summons. When James Hannen was the president of the Probate Division he was skilfully outwitted by a jurymen, who asked to be exempted from serving as a juror in a particular case. Seeing him dressed in sombre garment, Sir James asked on what grounds he desired to be relieved.

"My lord," said the applicant, "I am deeply interested in a funeral which takes place to-day, and am most anxious to follow."

"Your plea is a just one," replied Sir James sympathetically, "and I excuse you from further attendance."

The man departed, and the judge learnt the next day that he was the undertaker !

A Dakota judge, who also followed the calling of a veterinary surgeon, was not so easily imposed upon. A farmer came before him and asked to be excused from serving as a juryman on the plea that he had a sick horse.

" Is it your sorrel mare ? " inquired the judge, his professional instinct getting the better of his judicial dignity.

" Yes, your honour, " replied the man.

" Then the Court will adjourn for an hour, " said the judge. " I know something that will cure that mare inside of twenty minutes."

The judge linked arms with the juryman, and, accompanied by the prosecuting attorney, the sheriff and the prisoner, whom the sheriff would not leave behind, they sought the indisposed animal. The judge was as good as his word. He duly " fixed up " the mare, and the farmer repaid his kindness by officiating on the jury for the rest of the day.

Judge Lord, of Massachusetts, was equally keen in dealing with jurymen's excuses.

" Judge, " said a summoned juryman one day, " I think I ought to be excused. I have business here and there, am overwhelmed with it, and my physician says I ought to have a change. " " Well, this will be a change, and will do you good. "

On another occasion an able-looking man, when summoned as a juror, said : " Judge, if you keep me here as a juror you will stop five hundred men from work. " " What is your business ? " " I am a contractor for driving piles, and am driving them in different parts of the city. " " Well, sir, " said Judge Lord, " suppose you had a pile-driving case against you in this Court, and I should summon in twelve loafers to try your case, how should you like it ? " He took his seat.

Another American anecdote regarding jurymen's excuses concerns Chief Justice Parsons, of the same State. One day he was holding Court, and his nephew was one of the jurors. The Court took a regular inter-

mission from one to two o'clock, and when the Court came in the nephew did not appear for half an hour. Then he came in quite breathless. Judge Parsons said to him : " Mr. Juror, what is your excuse for keeping the Court and officers and twenty-three jurors waiting an hour ? " The juror said, " May it please you honour, after dinner I sat down and accidentally fell asleep, but as soon as I awoke I came with all the speed I could." " Mr. Clerk," said the Chief Justice, " fine him ten dollars." " I did not dream of that," said the juror. " You may remit the fine," said the Chief Justice.

More or less humour, however, is always to be extracted from the excuses made by summoned jurors not wishing to serve. Here is a typical scene in Court. Enter his lordship, the judge, who, after bowing courteously to the members of the Bar and assembled jurors, takes his seat.

" My lord," begins the clerk, " the following gentlemen desire to be excused from serving : "

Here the list of the " 'scuse " division is called over, and, having been completed, the first on the roll takes his place in the witness box and is duly sworn. From the self-satisfied way in which he kisses the book it is evident that he is pretty sure his excuse will be accepted, which turns out to be the case, as, having tendered to the judge a slip of paper, the latter, after a casual glance, at once releases him—said slip of paper being probably either a medical man's certificate or a declaration that the juror is legally exempt from serving on a jury, and that he should not have been summoned.

Number two is a totally different type. If he serves on a jury it will be the means of taking him away from his business (that of a florist), and, as just now the season is at its height, considerable pecuniary loss will accrue. The objection is considered fair and reasonable, and he is courteously informed that he will be excused ; but almost before he has had time to get out the " Thank you, my lord," which is ready on his lips, his satisfaction at having got off so easily is somewhat damped by being asked

“ What is your slack time of the year ? ” and on giving the information asked for he is informed that he will be summoned then !

The next three or four excuse themselves on the ground of being above the age (sixty years), one of being below—under twenty-one—and another on the score of deafness ; each and all which are held to be valid. Then comes a working man, who creates some amusement by declaring that “ he can’t leave his missus,” and, on being asked to explain, goes on to state that his business is that of a laundryman, and in his absence the work is at a standstill. His excuse is held to be a reasonable one, as is also that of a man who declares “ he ain’t no scholard, and that ‘twouldn’t be proper for him to be on a jury ” ; in other cases pressure of business is put forward, but in most cases an investigation proves the same to be not quite sufficient cause, and the would-be excuser has to take his place with the “ lefts ” ; although commercial travellers who can show that their route has been arranged and that their presence in certain towns within the next few days has already been advised, are allowed to absent themselves.

One man (a valet) gravely announces that his master cannot possibly get on without him ; and another (an artist) as solemnly avers that if he is torn away for even a few days from the work of art on which he is engaged the inspiration (!) will have left him, and that the work of many weeks past will be completely wasted ; yet another urges that he has conscientious scruples in regard to the matter.

Many are afflicted with deafness, which they fear might seriously interfere with their hearing the evidence ; and some three or four are represented by the wives of their bosoms, who make affidavit that their spouses are totally unable to be present for the very valid reason that they are not in England at all. In each case careful consideration and attention is given to the excuse offered, and in the majority of instances the same is duly accepted.

By degrees the long list is at length got through, the

last of the "excuses" is heard, and those less fortunate individuals who have none to offer settle themselves down as contentedly as may be to the business in hand.

On one occasion a juror asked Baron Alderson to excuse him from service. "On what grounds?" asked the Baron. "Well, my lord," replied the juror, "I can hear pretty well on this side when people speak with great distinctness, but on the other side I can't hear at all."

"Well," Baron Alderson said, "in courts of law it is necessary to hear both sides. You are excused."

Another judge, however, in reply to a like objection, sarcastically remarked :

"Oh, let him be sworn; we only hear one side of the case at a time."

HUMOURS OF FAMOUS LAWYERS' WILLS
AMUSING BEQUESTS OF SPITEFUL
TESTATORS

CHAPTER XII

HUMOURS OF FAMOUS LAWYERS' WILLS AMUSING BEQUESTS OF SPITEFUL TESTATORS

"The lawyer is a gentleman who rescues your estate from your enemies—and keeps it to himself."—*Lord Brougham*.

"It is shocking to reflect upon the litigation which has been occasioned by laymen making their own wills."

It is not often that the man in the street has a laugh at the expense of the lawyers; but when Lord St. Leonards, the famous lawyer, who was a great authority on wills and property, died in 1875, the layman was walking about with a broad grin for some considerable time. For not only had Lord St. Leonards called the layman to account for making his own will, but he had often declared that his will would present to the world a "testamentary masterpiece." And yet when he died, there was probably more litigation over his will than over any other, for the simple reason that it could not be found, although certain codicils were discovered. It was only when the intentions of the testator had been proved by these codicils, and the recollections of his daughter, who had acted as his secretary, that Lord St. Leonards' property was finally disposed of.

It is said that no toast is more popular in the Temple than, "The man who makes his own will," the idea being, of course, that the task is so technical and difficult, that a badly drawn will is sure to lead to litigation and so benefit lawyers generally. And there is no doubt that the layman who thinks himself clever enough to frame his last testament, with a view to saving a guinea

or so, is entitled to rank as one of the lawyers' most profitable friends ; for home-made wills have often led to litigation, long fought out, which has proved a small fortune to many a lawyer.

But what is to be said of a lawyer who draws up his own will, and makes such a hash of it that costly litigation follows. Many are the suggestions made as to the cause of these remarkable circumstances. One suggestion is that lawyers love a joke as much as anyone, and better, because their profession is so dry, and a bit of humour is like a ray of sunshine to their hearts. Therefore they make an imperfect will as a last joke on their profession.

Another suggestion is that some lawyers deliberately choose to leave a will in such a way that it is bound to come before the Courts, and so get settled certain points which the deceased thought strongly ought to be settled. Which is certainly hard lines on the relatives and beneficiaries. They see the estate slowly vanishing in law costs, and enriching the brother lawyers of the deceased.

As a matter of fact, however, there is an actual case on record of a lawyer who purposely framed his will so that its ambiguity should give rise to several fine legal questions that he had never been able to answer. This was Sir John Maynard, King's Sergeant in the reign of Charles II. His object was attained, for so many disputes arose among his heirs, that eventually a special Act of Parliament was passed disposing of his property.

An amusing comment was made by Lord Mansfield on one of the most curious wills ever made by a lawyer, viz., that of Sir Joseph Jekyll, Master of the Rolls, who bequeathed his fortune to pay off the National Debt. Lord Mansfield, in dealing with the case, said that " he might as well have attempted to stop the middle arch of Blackfriars Bridge with his full-bottom wig." He therefore set the will aside on the ground that the testator's patriotic intentions were proof of his mental weakness.

The most confusing legal will on record, perhaps, was that of Lord Grimthorpe, who died in 1905, and who, long before he succeeded to the title, earned distinction

at the Bar as Mr. Edmund Beckett Denison, Q.C. Incidentally it might be mentioned that, in addition to being a distinguished lawyer, the late Lord Grimthorpe was a clever architect, scientist and theologian, with a weakness for clock designing. As a matter of fact, he superintended the construction of "Big Ben," upon the outer rim of which his name figures in the inscription.

Lord Grimthorpe's estate was valued at two millions sterling, and his will contained no fewer than fourteen contradictory codicils, which the Probate Court were obliged to investigate very carefully before it could be proved. It took nearly two years to obtain probate, the will being a unique example of original, independent, and dogmatic individuality. In the framing of the will no fewer than 11,070 words were used, and many of the codicils are written on mere scraps of paper, headed "Another codicil to my will." One of these read: "I revoke the bequest of £1,000 for the York Minster restoration, as the people of Yorkshire are rich enough to look after their own cathedral." The fourth codicil was written on the back of a circular convening an extraordinary general meeting of a tea company; another was scribbled on the back of a letter addressed to Lord Grimthorpe by a photographer, and another appeared on the back of a circular announcing a dinner of the Hardwicke Society.

The will itself bore the date of February 9th, 1901, and before the end of December, 1903, the testator had added twenty-five codicils, some of them contradictory of each other and of the original document. But if Lord Grimthorpe had ordered a new will at the date of the last codicil, it would have been easy enough to put his intentions into a simple arrangement, such as that which it ultimately took two years for the Court to make.

But Lord St. Leonards and Lord Grimthorpe were but two of a number of distinguished lawyers and judges, who failed to draw up their wills correctly. When Judge Francis Bacon died in June, 1911, he left a fortune of £118,000. But the will, made on a sheet of blue court

foolscap, contained several alterations, and interlineations which were not signed or witnessed, the consequence being that before probate was granted careful legal investigations had to be made.

Four years ago there was considerable difficulty in proving the will of Mr. Henry George Allen, K.C. The will was written throughout in his own hand-writing, very difficult to read, portions having to be "fair copied" for registration, while three of the codicils were necessary for the correction of errors and the elucidation of doubtful points in the will itself. Then there was the case of Lord St. Helier, better known, perhaps, as Sir Francis Jeune, who died in 1905, and whose will contained so many confusing codicils that it occupied the Court for some considerable time. It was discovered, for instance, among other things, that his lordship had left a legacy to a clerk who had been dead ten years.

As far back as 1892, Lord St. Helier had drafted his will and sent it to his solicitors to have a fair copy made of it. This copy was soon after executed by him, and was left in his solicitor's possession. The original draft was burnt, and another copy of the executed will was furnished to Lord St. Helier. Some dispute having arisen between him and his brother, he executed a fresh will, dated June 3rd, 1892. It was composed of seven numbered sheets of foolscap. Numbers 1, 3, 5, and 6 were the sheets that formed part of the will executed in January, 1892, while sheets 2, 4, and 7 were in the hand-writing of the testator's clerk. This patchwork composition was, after careful inquiry and sifting, passed by the Court, mainly because of the high character of the witnesses who spoke as to the testator's intentions.

Probably the real explanation, and an explanation which will, at any rate, account for a large number of these imperfect wills left by lawyers, is that they grow careless when acting for themselves. When a lawyer is acting for a client, it is essential that he should take the greatest care in his work. In fact, he is bound to do so, otherwise he might find himself liable to an action for

damages for negligence. But where he is acting for himself he seems to think that any sort of short-cut will do.

Besides all this, a lawyer very often has quite a dislike to drawing up his own will. He advises his clients fast enough to draw theirs—*i.e.*, to let him draw them—and tells them that “there is nothing like having all your affairs in order, and you will not die a day sooner for having made your will.” But they are really the last people, as a class, to properly settle their own affairs.

Several of our great lawyers have set an example of commendable brevity in their testaments. When Lord Mansfield, Lord Chief Justice of King’s Bench from 1756 to 1788, died, he left behind him an estate worth half a million pounds, and yet he disposed of it all on half a sheet of notepaper. This is how his will ran: “Those who are nearest and dearest to me best know how to manage and improve, and ultimately in their turn to divide and subdivide, the good things of this world, which I commit to their care, according to events and circumstances which it is impossible for me to foresee or trace through all the many labyrinths of time and chance.”

Almost equally brief was the will of the late Lord Russell of Killowen, which disposed of property to the value of nearly £150,000; while Sir James Stephen, one of the most profound lawyers of any age, was content to dispose of all he had in these thirteen words: “I give all my property to my wife, whom I appoint sole executrix.” The wording of this will, by the way, is curiously like that used by Matthew Arnold, who wrote: “This is my last will. I give all my property to my wife.” Unfortunately, however, he omitted to add the words, “whom I appoint sole executrix”; with the result that probate could not be granted, and it was necessary to take out letters of administration.

Probably there is no more humourous specimen of the absurd rhetorical legal style, formerly in vogue, than that displayed in the will of a former Lord Treasurer. This was the Earl of Dorset, the successor of Lord Burleigh. In bequeathing a trifling gift to his wife, his will

commences: "I bequeath to Cecilie, Countess of Dorset, my most virtuous, faithful and dearly-loved wife, not as any recompense of her infinite merit towards me, who, for incomparable love, zeal, and hearty affection ever showed unto me, and for those her so rare, reverent, and many virtues of charity, modesty, fidelity, humility, secrecy, wisdom, patience, and a mind replete with all piety and goodness, which evermore shall and do abound in her, deserveth to be honoured, loved, and esteemed above all transitory wealth and treasure of this world, and, therefore, by no price of earthy riches can by me be valued, recompensed, or requitted; to her, therefore, my most virtuous, faithful, and entirely-loved wife—not, as I say, as a recompense, but as a true token and testimony of my unspeakable love, affection, estimation, and reverence, long since fixed and settled in my heart and soul towards her, I give," etc.

Mention, by the way, might also be made of the curious will of an old black-letter Serjeant, William Hall, which certainly suggests the testator's malevolence, if not insanity. After other bequests, it went on: "I give to that vile wretch, Samuel Hall (his nephew), who I admitted of the Temple, many years since, but he sold his gown, and in seven years I could never get him to church but once, and twice he assaulted me, and at the time he had certainly killed me if by God's providence I had not by a maid-servant been thrown against a great fire, the sum of ten shillings to be paid to him every Monday upon request, and I wish that the first food he takes after my death will choke him."

And how the lawyers must have grinned over the wills of other spiteful testators—chiefly henpecked husbands, who prepared posthumous whips for wives by vindictive clauses in their wills.

"As for thirty years my wife has never lost an opportunity of lashing me with her tongue," ran a codicil in the will of a Liverpool merchant of a generation ago, "and making me the butt of her vulgar wit, I bequeath to her an annuity of £300, so long as she lives under the same

roof with her mother, whose tongue is as poisonous as her own, and whom she hates as cordially as she does me ; and so long as mother and daughter together visit my grave on the first day of each month, and in the presence of my solicitor, or his deputy, express regret for the unhappiness they have caused me."

In another similar case of a disappointed husband, his revenge was voiced in these words : " When I remember that the only happy times I ever enjoyed were when my wife sulked with me, and when I remember that my married life might, for this reason, be considered to have been a fairly happy one because she was nearly always sulking, I am constrained to forget the repulsion the contemplation of her face inspired me with, and leave her the sum of £60,000 on condition that she undertakes to pass two hours a day at my graveside for the ten years following my decease, in company with her sister, whom I have reason to know she loathes worse than she does myself."

" During my married life," wrote another disillusioned husband, " I have always declared that my wife was the dearest woman in the world, and I am convinced that, should anyone be rash enough to marry her after my death he will find her so. To deter, as far as possible, anyone making such a ruinous experiment I leave her nothing."

Vanity appears to have been the besetting sin of the wife of another testator, who left her the sum of £12,000, to be increased to £24,000, provided that after his death she wore a widow's cap, which in his lifetime she had stoutly declared she never would wear. " My widow," wrote the husband, " would please me greatly by doing this, as I think it would suit her." The good lady, however, was as sharp-witted as she was vain, for after wearing the odious cap for six months she boldly claimed the increased legacy. The matter was brought before a Court of Law, and to the widow's delight, judgment was given in her favour on the ground that the testator had omitted to stipulate that the cap should be worn always. The week after this decision was given the triumphant widow was once more a wife.

It was probably jealousy, rather than affection, that inspired the following clause in a will preserved at Somerset House: "Having expiated the errors of a single life by the sorrows of a married one, I now make my will in the full belief that you will outlive me. There are widows, my love, and there are widows. Some rejoice, and some do not. Those that do are a discreditable lot. The bare idea of your joining their ranks is so distasteful that to damp any glee you may feel at my death, I leave you £10 a year instead of the £100 you expected."

Jealousy has led to other strange wills. A short time ago a Mr. William Claghorn died in America, possessed of about £60,000 and a pretty wife. Of her he was inordinately jealous. He left her all his money, however, but stipulated that she should forfeit £200 of the estate each time she appeared in public unveiled, and another £200 each time she smiled at a man. "I do further order that for every time she dances with a man, goes to any gathering for entertainment, amusement, or instruction with a man, that the same sum shall be forfeited, and, further, that if she do permit any caress or fashion of endearment, £1,000 be forfeited."

As a contrast, one might mention the wealthy man who left not a single penny to his widow unless within the space of five years she married again, in which case he bequeathed to her the sum of £1,000. "My object in making this proviso," continued the testator, "is that some other man may know from experience something of the difficulties I have found from living with her."

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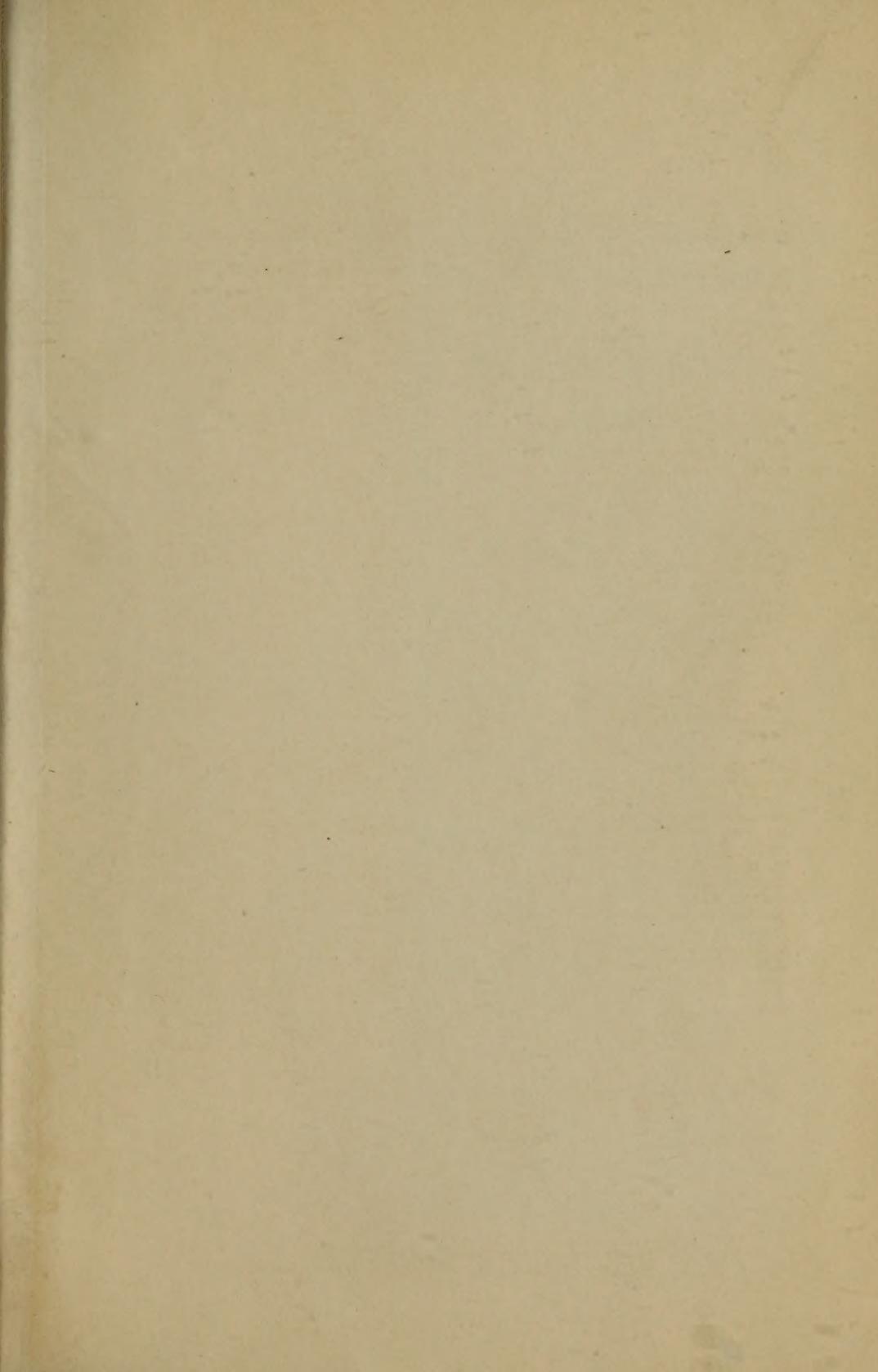
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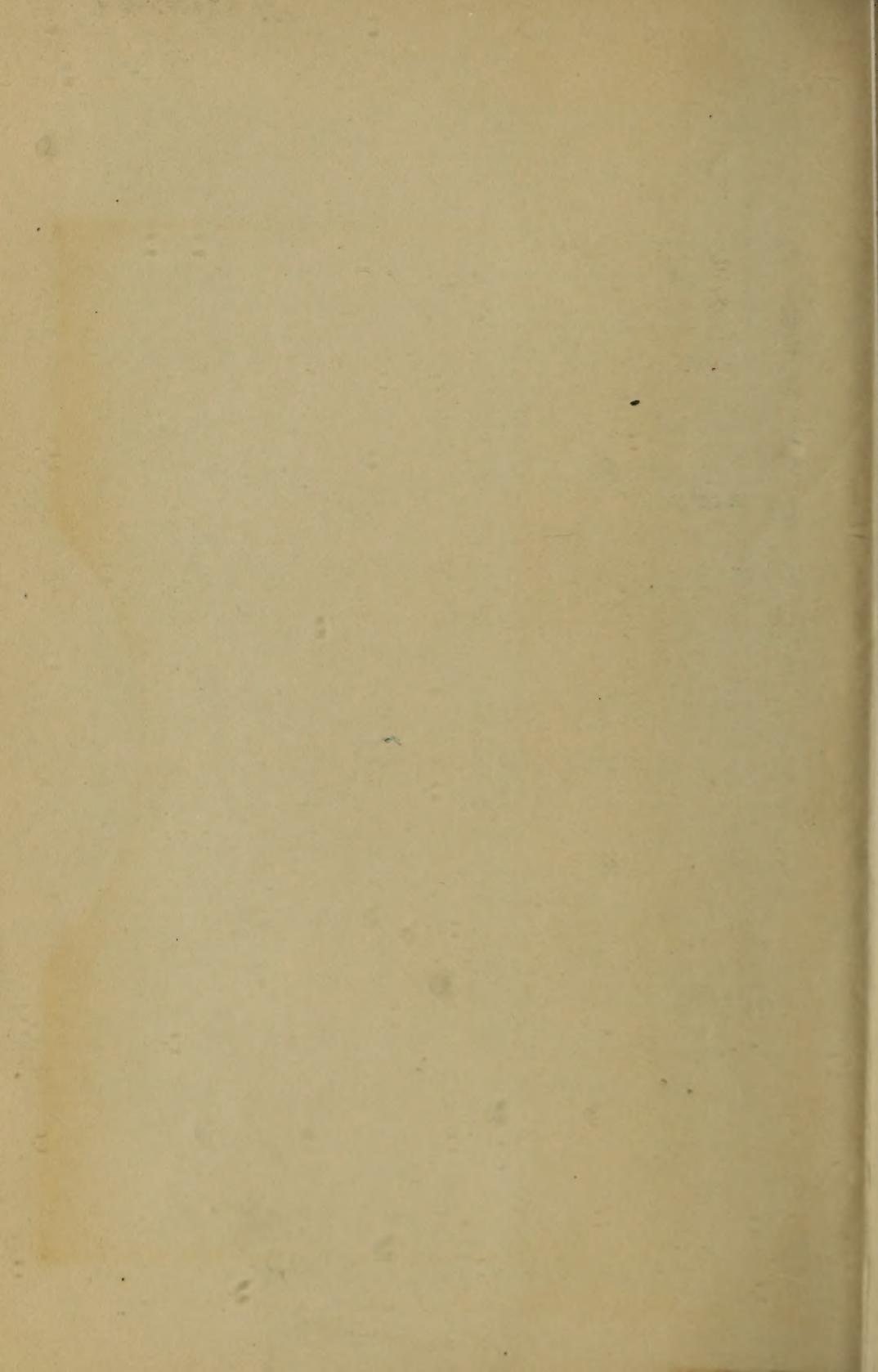
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